

2005 Court Clerk Training Institute

CIVIL COUNTER FILING PROCEDURES



TABLE OF CONTENTS

Table of Contents	i-iv
CUSTOMER SERVICE – TAB A TOPIC [Relevant Judicial Council forms are at the end of the sections]	PAGE
Interacting with the Public • • • • • • • • • • • • • • • • • • •	A-1 A-2 A-2 A-3
CIVIL LITIGATION – TAB B TOPIC [Instructions are followed with the relevant Judicial Council forms]	PAGE
Civil Introduction	B-1 B-1 B-4 B-7 B-9 B-11 B-13 B-15 B-16 B-19 B-21 B-23 B-25 B-26 B-31 B-32 B-33 B-33 B-36
ENFORCEMENT – TAB C TOPIC [Instructions are followed with the relevant Judicial Council forms]	PAGE
Writ of Execution • • • • • • • • • • • • • • • • • • •	C-1 C-12

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings	
Renewal of Judgment • • • • • • • • • • • • • • • • • • •	C-16 C-23
CIVIL MISCELLANEOUS MATTERS – TAB D TOPIC [Instructions are followed with the relevant Judicial Council forms]	PAGE
In Forma Pauperis/Fee Waiver • • • • • • • • • • • • • • • • • • •	D-1 D-3 D-4 D-5 D-8 D-10 D-12 D-14 D-15 D-16 D-17 D-19 D-21
UNLAWFUL DETAINERS – TAB E TOPIC [Relevant Judicial Council forms are at the end of the sections]	PAGE
Unlawful Detainer Introduction • • • • • • • • • • • • • • • • • • •	E-1 E-5 E-9 E-11 E-13 E-15 E-17 E-19 E-20 E-22 E-25 E-26 E-28 E-29 E-31

PROTECTIVE ORDERS – TAB F

TOPIC [Instructions are followed with the relevant Judicial Council forms]	PAGE
Civil Harassment Introduction • • • • • • • • • • • • • • • • • • •	F-1
Temporary Restraining Order and Injunction Prohibiting Harassment • • • • • • • • • • • • • • • • • • •	F-2
Order to Show Cause and Temporary Order – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-3
Proof of Personal Service – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-5
Answer to Request for Orders to Stop Harassment • • • • • • • • • • • • • • • • • • •	F-7
Proof of Service by Mail – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-8
Restraining Order After Hearing to Stop Harassment • • • • • • • • • • • • • • • • • • •	F-9
Petition of Employer for Injunction Prohibiting Violence or Threats of Violence	
Against Employee • • • • • • • • • • • • • • • • • •	F-11
Order to Show Cause and Temporary Restraining Order – Workplace Violence • • •	F-12
Proof of Personal Service – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-14
Response to Petition of Employer for Injunction Prohibiting Violence or Threats of	
Violence Against Employee Workplace Violence • • • • • • • • • • • • • • • • • • •	F-15
Proof of Service of Completed Response – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-16
Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or	
Threats of Violence Against Employee – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-17
Protective Orders for Elder or Dependent Adult • • • • • • • • • • • • • • • • • • •	F-19
Order to Show Cause and Temporary Restraining Order – Elder or Dependent Abuse	
	F-20
Proof of Service - Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-22
Response to Petition for Protective Orders Elder or Dependent Abuse • • • • • • • •	F-23
Proof of Service by Mail Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-24
Restraining Order After Hearing Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-25
Proof of Sale of Firearms/Turning in of Firearms • • • • • • • • • • • • • • • • • • •	F-26
Application and Order for Re-issuance of Order to Show Cause • • • • • • • • • • • • • • • • • • •	F-27
SMALL CLAIMS FILINGS – TAB G	
TOPIC [Instructions are followed with the relevant Judicial Council forms]	PAGE
Small Claims Introduction • • • • • • • • • • • • • • • • • • •	G-1
Small Claims Facts (definitions) • • • • • • • • • • • • • • • • • • •	G-1
Small Claims Flow Chart • • • • • • • • • • • • • • • • • • •	G-9
Plaintiff's Claim and Order to Defendant – Small Claims • • • • • • • • • • • • • • • • • • •	G-10
Proof of Service Defined – Small Claims • • • • • • • • • • • • • • • • • • •	G-12
Certified Mail Instructions – Small Claims • • • • • • • • • • • • • • • • • • •	G-14
Proof of Service – Small Claims • • • • • • • • • • • • • • • • • • •	G-19
Defendant's Claim and Order to Plaintiff – Small Claims • • • • • • • • • • • • • • • • • • •	G-21
Subpoena and Declaration – Small Claims • • • • • • • • • • • • • • • • • • •	G-23
Request to Postpone Small Claims Hearing • • • • • • • • • • • • • • • • • • •	G-25
Judgment – Small Claims • • • • • • • • • • • • • • • • • • •	G-27
Motions – Small Claims • • • • • • • • • • • • • • • • • • •	G-29

iii

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings	
Appeal – Small Claims • • • • • • • • • • • • • • • • • • •	G-31
Request to Pay Judgment in Installments – Small Claims • • • • • • • • • • • • • • • • • • •	G-33
Request to Pay Judgment to Court – Small Claims • • • • • • • • • • • • • • • • • • •	G-35
Order to Produce Statement of Assets and to Appear for Examination – Small	
Claims	G-37
Acknowledgment of Satisfaction of Judgment – Small Claims • • • • • • • • • • • • • • • • • • •	G-39

APPENDIX – TAB H

CUSTOMER SERVICE

INTERACTING WITH THE PUBLIC: For the purpose of this discussion, the term "Public" includes litigants, attorneys, and other interested parties. You are one of the first people representing the court the customer comes in contact with. The clerk must maintain a proper attitude of courtesy and impartiality towards all persons.

Dealing successfully with the public is not a mysterious stroke of good fortune. It is a series of conscious steps, which combine to form a technique, which can be practiced and perfected.

Following the steps below can perfect interacting effectively with the public:

- **SMILE-** Greet customers positively and always with a smile.
- **BE ALERT TO GIVE SERVICE-** The cornerstone of our function is public service. Make the first approach through an offer to be of assistance. Always give the customer your full attention.
- **TONE OF VOICE-** Remember people hear on two levels: (1) the actual words said (**content**), and (2) how they are said (**tone**). These two elements are intrinsically bound and cannot be separated.
- COMMUNICATE GOOD BODY LANGUAGE
- ADDRESS PEOPLE BY NAME WHENEVER POSSIBLE- But never by first name.
- **PROJECT CONFIDENCE IN YOUR ABILITY TO HELP-**This means that you either (1) know the information, or (2) know where to find help.
- DO NOT EXPRESS PERSONAL VIEWS.
- **SHOW EMPATHY-** When assisting upset or difficult customers remember to show sensitivity to the customers needs. Empathy is showing you understand the customer's situation or feelings by responding appropriately

EMPATHY PHRASES:

- "I can imagine how frightened you must have been"
- "I can see this is inconvenient for you"
- "Yes, it seems we do ask a lot of questions at times"
- "I know it can be confusing"
- "It's very frustrating when something like that happens"

[&]quot;Proper conduct by court employees inspires public trust in the Judicial System, and conveys the values of impartiality, equality, and fairness that bring integrity to the administration of justice."

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

LISTENING AS A SKILL: Listening is a complex skill, the mastery of which is crucial. Here are some techniques to help master this skill:

- Give your **UNDIVIDED ATTENTION**;
- Focus your attention and **CONCENTRATE**;
- Give responses during their explanation that shows you are listening— REFLECTING;
- Look for NON-VERBAL CLUES For instance shaking head up and down and showing acknowledgment
- Maintain EYE CONTACT;
- **ASK QUESTIONS** Ask questions for more clarity or information, by asking close-ended questions in order to help you help them. If you are still unclear, ask open-ended questions, such as who, what, where, when, why, and how.

OPEN-ENDED QUESTIONS:

What is an open-ended question?

An "open-ended" question requires a more detailed answer and draws out information from the customer to help you obtain information about what it is they want.

Open-ended questions ask: Who, What, Where, When, Why, and How.

What is a close-ended questions?

A "closed-ended" question requires a "yes" or "no" response.

Benefits of using open-ended question:

By using this kind of question, customers provide more specific information concerning their needs. It assists the person responding to the customer's needs to quickly identify and provide the appropriate service.

CODE OF ETHICS FOR THE COURT EMPLOYEES OF CALIFORNIA

Γenet One Provide impartial and evenhanded treatment of all persons;		
Tenet Two	Demonstrate the highest standards of personal integrity, honesty, and truthfulness in all our professional and personal dealings, avoiding the misuse of court time, equipment, supplies, or facilities for personal business;	
Tenet Three	Behave toward all persons with respect, courtesy, and responsiveness, acting always to promote public esteem in the court system;	
Tenet Four	Safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters;	
Tenet Five	 Refrain from any actual impropriety, such as: breaking the law, soliciting funds on the job, receiving gifts or favors related to court employment, accepting outside employment that conflicts with the court's duties, or recommending private legal service providers; 	
Tenet Six	Avoid any appearance of impropriety that might diminish the honor and dignity of the court;	
Tenet Seven	Serve the public by providing procedural assistance that is as helpful as possible without giving legal advice;	
Tenet Eight	Furnish accurate information as requested in a competent, cooperative, and timely manner;	
Tenet Nine	Improve personal work skills and performance through continuing professional education and development;	
Tenet Ten	Guard against and, when necessary, repudiate any act of discrimination or bias based on race, gender, age, religion, national origin, language, appearance, or sexual orientation;	
Tenet Eleven	Renounce any use of positional or personal power to harass another person sexually or in any other way based on that person's religious beliefs, political affiliation, age, national origin, language, appearance, or other personal choices and characteristics; and	
Tenet Twelve	Protect the technological property of the court by preserving the confidentiality of electronically stored information and abstain from personal use of court computer systems and hardware.	

Ref: Rule Appendix. I §35

THIS PAGE INTENTIONALLY LEFT BLANK

CIVIL LITIGATION

Civil litigation is a judicial proceeding used to prosecute a civil wrong. A civil wrong is a wrong committed by one person against another, in which the injured person may be entitled to damages. If a person suffers because of a personal injury or damage to his/her property, this type of damage is a tort.

The purpose of the court is to resolve differences between the parties to a lawsuit and to establish the rights, duties, and obligations of the parties.

INFORMATION YOU NEED TO KNOW ABOUT CIVIL LITIGATION:

Alternative Dispute Resolution:

California Rule of Court 201.9. Information About Alternative Dispute Resolution

- Cause of action: Comprised of allegations to the action and gives a party the right to request a remedy by the court. Allegations are statements by the plaintiff setting out what the plaintiff intends to prove.
- Drop Box: Whenever a Clerk's Office filing counter is closed between 8:30 a.m. and 4:00 p.m. on a regular court business day, the court **must** have a drop box for deposit of documents. Documents left in that box as of 4:00 p.m. will be filed effective that business day. Any documents left in the drop box thereafter, will be filed as of the next regular court business day. CRC 201.6.
- Filing Fees: Uniform filing fees have been legislated to affect all courts in this state.
- Forms: The Judicial Council of California approves or adopts various forms for use in the court of litigation. The notation as to whether the form is approved or adopted is located on the bottom left hand margin. If the form is "approved" the form is optional for use and then can be prepared on pleading paper. If the form is "adopted" by the Judicial Council, the form is mandatory and **must** be used. The date the form was last updated is also noted on the bottom left hand margin of a Judicial Council form. The name of the form is on the bottom center of the form, and the code section is noted on the bottom right hand margin of the form. CRC 201.1.

Jurisdictional Limits in Civil Litigation are as follows:

\$0.00 - \$25,000.00	Limited Civil
\$25,000.00 or more	Unlimited Civil

Parties: There are many party types. It is important to know which parties apply to civil cases.

Parties	The persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance; or who are actively concerned in defense of any legal proceeding.
Plaintiff	A person who brings an action; the party who complains or sues in a civil action and is so named on the record. A person who initiates a lawsuit.
Petitioner	One who presents a petition to a court in legal proceedings begun by petition.
Cross-Complainant	A party against whom a cause of action has been asserted in a complaint or cross-complaint who files their own cross-complaint.
Defendant	The party against whom an action is brought, a warrant issued, or an indictment found.
Respondent	The person against whom action or relief is prayed, or who opposes the prayer of the petition.
Cross-Defendant	The party against whom a cross complaint is brought.
Attorney	A legal agent authorized to appear before a court as a representative of a party to a controversy.
In Propria Persona (Pro Per)	Self-Represented Litigant, a party that represents themselves in any court proceeding.
Mediator	Intermediary between parties who helps to settle disputes.
Arbitrator	An impartial 3 rd person who shall be empowered to render an award which may result in a judgment.
Interpleader	A party to the action who holds disputed property (or money) but has no interest in said property.
Intervenor	A person who voluntarily interposes in an action or other proceeding with the leave of court.
Assignee	A person to whom a claim, rights, property, etc. is transferred.
Jury	A certain number of people selected according to the law, and sworn to inquire of certain matters of fact, and declare the truth based upon evidence to be laid before them.
Judgment Creditor	Prevailing party; a party awarded (or assigned) a judgment in their favor.
Judgment Debtor	Losing party; a party who had judgment entered against them.

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

Guardian Ad Litem	A guardian appointed by the court to prosecute or defend,		
Guardian Ma Enteni	7		
	on behalf of a minor or incompetent, a suit to which		
	that individual is a party. While acting in this		
	capacity, such guardians are considered an officer of		
	the court (rather than a party litigant) to represent the		
	interests of the minor or incompetent in the		
	litigation.		
Witness	A person who testifies or gives evidence with respect to		
	something he/she has observed or of which he/she		
	has knowledge.		
Doe	Fictitious designation most commonly used in a complaint		
	to allow for naming additional parties at a later date.		

- Prayer: is the section of the complaint in which the plaintiff states the damages or relief sought.
- Statute of Limitations: Time constraints set forth by statute for filing of actions. These laws are complex, varied and extensive. It is not the responsibility of the clerk to verify if the statute is being met. That would be a judicial determination.
- <u>Case Management</u>: Rules governing timely, efficient and fair disposition of general civil cases. The "updated" version of Trial Court Delay Reduction. CRC 204, et seq.
- Calendaring Systems:

Direct Calendar Assignments:

Master Calendar Systems:

Verification: is a form signed by the client, under oath, penalty, or perjury, attesting the truth of the facts set forth in the complaint.

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

COMPLAINT – GENERAL CIVIL [CRC §200.1(2)]

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

- Complaint − Contract − 982.1(20) or
- Complaint Personal Injury, Property Damage, Wrongful Death 982.1(1) or
- Complaint submitted on pleading paper
- **Summons** − **SUM-100**
- ☐ Civil Case Cover Sheet CM-010

Fee \$ filing fee as required under GC \$72055 unless there is 1) a fee waiver 2) entity is exempt under GC \$6103 or 3) partial payment by check [CCP \$411.20 (a)]

Check:

Complaint

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- plaintiff and defendant full names in case caption if on pleading paper [CRC 201(f)(4)] each party separate line
- ☑ date and signature of all plaintiffs or attorney for plaintiffs

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ☑ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt
- depending upon your court's policy, generate the notice of case management conference

Check:

■ Summons – Civil - Sum-100

- notice to defendant completed with exact names as listed on the complaint
- ☑ plaintiff names completed as listed on the complaint
- ✓ correct court title and address
- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)

Process:

- ĭ affix the case number
- ☑ affix the court seal
- ☑ insert the date, Executive Officer's name and sign the original summons
- ĭ conform the copies

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

	X	according to your court policy you may be entering the data into your case management system
<u>Note:</u>		If the only plaintiff is a minor, incapacitated person or a conservatee, a summons and complaint may not be issued until the Guardian Ad Litem application and order has been approved and filed.
Check	_	C CI CM 010 (CD C 101 9)
□ Civ		a box marked reflecting "Unlimited" or "Limited" – matching complaint #1 a case category box must be checked #2 a box must be marked #3 at least one or more boxes marked
Proces	<u>s:</u> X	affix the case number insert name of judge and department pursuant to your court policy file stamp and conform the copies according to your court policy you may be entering the data into your case management system if identified as complex collect fees
Note:		The Civil Case Cover Sheet only needs to be served on the defendant if the plaintiff indicates on the cover sheet that the case is complex under Rule 1800 et seq. CRC 201.8 A Civil Case Cover Sheet must be completed and filed with any first initial filings. Failure to file a Cover Sheet may be subject to sanctions under [CRC 201.8(c) and 227]

THIS PAGE INTENTIONALLY LEFT BLANK

ANSWER – GENERAL CIVIL (CCP §431.30)

The Answer – Civil Litigation carries the same principals as any other type of answer. This is the defendant's formal written statement, including a general denial which sets forth the grounds of his/her defense.

Requi	re:	
Pleadi	_	presented on the forms as Approved for Optional use by the Judicial Council:
		Answer – Contract – $982.1(35)$ or
		Answer – Personal Injury, Property Damage, Wrongful Death – 982.1(15)
		or
		Answer submitted on pleading paper
		Civil Case Cover Sheet – CM-010
	Fee	\$ filing fee per party as required under GC §72055 unless there is 1) a fee waiver 2)) entity is exempt under GC §6103 or 3) partial payment by check [CCP §411.20 (a)]
Check		
ĺ,	<u></u>	Register of Actions for a default – even if the defendant's time to answer
_	— - I	nas expired.
	☑ .	filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
	\checkmark	correct court title
	$\overline{\mathcal{A}}$	date and signature of all parties or their attorney
	$\overline{\checkmark}$	completed proof of service on plaintiff or plaintiff's attorney
Proces	22.	
TTOCCE	<u>×</u>	file stamp and conform all copies
	X	receipt filing fees and provide the customer with a copy of the receipt
	X	according to your court policy you may be entering the data into your case management system
Note:		•
		May be accompanied by a cross complaint. A cross complaint should be a separate document (CCP 428.40).

THIS PAGE INTENTIONALLY LEFT BLANK

CROSS-COMPLAINT – GENERAL CIVIL (CCP §428.10 ET SEQ.)

A cross-complaint is an action brought by a defendant against a plaintiff or co-defendant upon a cause of action growing out of the same transaction in which there is a controversy. It is governed by the same rules and guidelines as a complaint. Though a cross-complaint is often filed concurrent with an answer, it must always be presented as a separate document.

T.	•	
RAG	quire:	•
116	luii C	۰

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

- Cross-Complaint Contract 982.1(20) or
- Cross-Complaint Personal Injury, Property Damage, Wrongful Death 982.1(1) or
- Cross-Complaint submitted on pleading paper
- **Summons** − SUM-100 (if applicable)
- Civil Case Cover Sheet CM-010, if case is being designated as complex litigation (if applicable)

Fee \$ filing fee as required under GC §72055 **unless previously paid** or there is 1) a fee waiver 2)) entity is exempt under GC §6103 or 3) partial payment by check [CCP §411.20 (a)]

Check:

Cross Complaint

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ plaintiff and defendant full names in case caption
- ☑ date and signature of all plaintiffs or attorney for plaintiffs
- proof of service or summons to issue (CCP 465)
- ☑ at or before answer if a cross complaint against plaintiff (CCP 428.50)

Process:

- ☑ file stamp and conform all copies, issue summons if necessary
- receipt the filing fee and provide the customer with a copy of the receipt
- according to your court policy you may be entering the data into your case management system or register of actions
- ⊠ execute notice to any new parties with ADR forms

Note:

- If a trial date is set the parties will need leave of court to file a cross-complaint.
- Cross Complaint may also reclass a case, see reclass section.

■ Summons – Civil - Sum-100

- notice to cross-defendant completed with exact names as listed on the complaint
- ☑ cross-complainant names completed as listed on the cross-complaint
- orrect court title and address

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201)

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

AMENDED PLEADINGS (CCP §465, CCP §472, CRC §5.108(b))

To amend a pleading is to change, correct, or revise that pleading. It is done with the intent of improving the initial pleading by removing defects or faults. An amended pleading can be in the form on an amended complaint, amended cross-complaint or amended answer. Amended pleadings supersede (takes the place of) the original.

An amendment to a pleading is a separate document that states the specific addition, omission, or corrected fact, citing the page and line numbers to be changed. An "amendment" does not take the place of the original document but becomes a part of the original document.

Require:

Pleadings – presented in the format or forms as approved for use by the Judicial Council, or pleading format. Use forms or formats in the same manner as original pleading.

Check:

Amended Complaint

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ correct case name and number
- ☑ caption correctly reflects "# (First) Amended Complaint"
- ☑ complete names of all parties and signatures on amended pleadings
- ☑ verify proof of service or if summons is to issue
- a pleading may be amended once without permission of the court at any time before a responsive pleading has been filed, or after a demurrer is filed, and before the trial on the issue. (CCP §472)

Amended Answer

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ✓ correct case name and number
- ☑ caption correctly reflects "# (First) Amended Answer" check for proof of service
- an answer may be amended once without leave of court if it is filed before a ruling on any demurrer to the original answer or, when there is no demurrer, if the amended answer is filed within 10 days after the original answer was filed. (CCP §472)

Process:

- ☑ file stamp the amended pleading and conform the copies
- if amended complaint, issue amended summons

THIS PAGE INTENTIONALLY LEFT BLANK

CASE MANAGEMENT STATEMENT [CRC §212(g)]

In every general civil case except complex cases and cases exempted under rules 207(c)-(d), 209 (c)-(d), 214, and 243.8, the court must review the case no later than 180 days after the filing of the initial complaint. In each case, the court must set an initial case management conference to review the case. At the conference, the court must review the case comprehensively and decide whether to assign the case to an alternative dispute resolution process, whether to set the case for trial, and the other matters stated in this rule.

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Check:

Case Management Statement – CM-110

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- plaintiff and defendant full names in case caption
- ☑ case number
- date and signature of party or attorney for party
- timeliness, must be filed at least 15 calendar days before case management conference

Process:

- ille stamp and conform all copies
- according to your court policy you may be entering the data into your case management system
- ☑ follow local court policy for any late filings

THIS PAGE INTENTIONALLY LEFT BLANK

JURISDICTION (CCP §410.50, §410.70)

The jurisdiction of the defendant in an action is the power of the court to subject that party to decisions and rulings made in that case. Jurisdiction may be acquired by the appearance of the defendant in the action **or** by proof of proper service on the defendant. When a default is entered, the jurisdiction has usually been established by the proof of service.

The following is a table of establishing the jurisdiction date based on the type of service:

TYPE OF SERVICE	DATE OF JURISDICTION
Personal Service CCP §415.10	Date of delivery
Substituted Service (with follow-up mailing) CCP §415.20(b)	10 th day after date of mailing (not counting date of mailing)
Mail with Notice and Acknowledgement of Receipt CCP §415.30	Date notice form is signed by Respondent (not the date of receipt)
Certified Mail (outside California; in or out of the U.S.) CCP §415.40 & 413.20	10 th day after date of mailing (not counting date of mailing)
Publication (requires a court order) CCP §415.50 GC §6064	28 th day after first date of publication, including the first day, or add six days to the last date of publication
Posting CCP §413.30	28 th day after the first date of posting

PROOF OF SERVICE (CCP §415.10, §417.40)

The proof of service is the document filed with the court record to provide formal proof that a petition and summons were officially served on the respondent in the action. It can be used to establish court jurisdiction over respondent. The proof of service contains an affidavit of the person effecting service showing the date and manner of service and other requirements as set forth by the Code of Civil Procedure.

PROOF OF SERVICE METHODS (CCP 415.10-415.50)

PERSONAL SERVICE

- Service is complete on the date a copy of the summons and complaint is served as described below:
- Personal delivery on the defendant(s) named.
- Service on a business (sole ownership) using a fictitious business name is complete on date the owner is given a copy.
- Service on a partnership is complete on the date one of the partners is given a copy. If the individual partners are sued, they must each be served.
- Service on a corporation is complete on the date a copy of the summons and complaint is given to an officer of the corporation or a person authorized to accept service.
- Service on a minor or incompetent is complete on the date a copy of the summons and compliant is given to the minor (at least 12 years of age) and to the guardian ad litem for incompetent person.

SUBSITUTED SERVICE

Service by substituted service is effected in two steps:

- A copy of the summons and complaint must be left at the home or place of employment. A copy of the summons and complaint must be given to a competent member of the household or to a person apparently in charge of defendant's office or place of business, who is at least 18 years of age, and who is informed of the contents thereof.
- A copy of the summons and complaint must be mailed to the defendant's address where the first copy was left. Service is deemed complete on the 10th day after mailing. CCP 415.20(b).

ACKNOWLEDGMENT AND RECEIPT

- Accomplished by mailing a copy of the issued summons and filed complaint by first class mail or airmail, postage prepaid, to the person to be served, together with two copies of the notice and acknowledgment of receipt with a return envelope, postage pre-paid, addressed to the sender. CCP 415.30.
- Defendant has 20 days to sign and return the acknowledgment of receipt, or the defendant will be responsible for the cost to personally serve the defendant; defendant has 30 days from the date the acknowledgment was executed to respond.

SERVICE BY PUBLICATION

- Upon court order, publish issued summons in a named newspaper in the state likely to give notice to the party served and mail a copy of the summons, complaint, and order for publication tot he party to be served if such address is ascertained before the expiration of the time of publication. Publication must be once a week for four consecutive weeks. CCP 415.50; GC 6064.
- Defendant has 30 days after the 28th day of the first publication to respond.

Require:

Pleadings – presented on the forms as adopted for optional use by the Judicial Council:

Proof of Service of Summons – POS-010

Check:

Proof of Service of Summons – POS-010

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ☑ correct case name and number
- #2 a through f marked with documents that were served
- #3 name of the party that was served
- #4 address where party was served must be completed, including city and state where served
- **☑** #5 Service Information

manner of service must be marked

- a. personal service
- substituted service date and time must be filled in and the name and title or relationship of person copies were left with and 1 through 3 as appropriate; 4 must be done after substituted service; 5 there must be a declaration of diligence attached

Page 2

- c. mail and acknowledgment, **attach** completed Notice and Acknowledgment of Receipt; for an address outside California certified mail attach signed return receipt
- d. other specify code section (this will be used for posting)
- \square #6 completed as set forth on the summons
- \square #7 complete information of person who served the papers
- \square #8 or 9 completed as applicable
- ☑ date and signature of person who served papers

Process:

- ☑ file stamp the original proof of service and conform the copies
- enter the data into your case management system

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

Note:	
	On any type of service a separate proof of service is required for each
	named defendant.

DEFAULT

(CCP §585 & §587 CRC §5.122 & 5.124)

In a civil case, a default is the failure of the defendant to answer the complaint.

Upon request, or application, of the plaintiff that default be entered as to defendant, the clerk enters the default in accordance with CCP §585-587.

A default may NOT be entered against the defendant if the defendant has appeared in the action by filing one or more of the following (CCP §585 & CRC 5.120).



Choole.

DO NOT ENTER DEFAULT IF:

- answer has been filed

- Notice of bankruptcy

CHECK.	
	Court file
	for any of the above filings that would preclude entry of default
	if proof of service was not submitted with the request to enter default
	Proof of Service of Summons POS-010 ✓ for complete information upon which to base jurisdiction (see procedures under Proof of Service)
Note:	
	If both parties have filed pleadings, there may be no default entered on an
	amended pleading of either party. CRC 5.108
	If the defendant has filed any of the above motions, you may enter default
	following the hearing if the ruling permits. (CCP §586, CRC §5.122)

Schedule to establish time lines for the soonest time defaults may be entered:

TYPE OF SERVICE	WHEN DEFAULT MAY BE ENTERED
Personal	day after date of
Substituted	day after date of
Notice & Acknowledgment	day after
Certified Mail	day after date of
Publication	day after
Posting	day after date of

REQUEST TO ENTER DEFAULT (CCP §585 & §587)

Require:

Pleadings – presented on the forms as adopted for mandatory use by the Judicial Council:

- Proof of Service of Summons POS-010
- Request for Entry of Default -982(a)(6)

Check:

Request for	Entry	of Default -	- 982(a)	(6	1
itequest for		or Deluuit	<i>-</i> (ч,	10	

- submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ correct case name and number
- ✓ "Request for" completed
- \blacksquare #1a, b, c, d or e completed
- #2 if court judgment is being sought
- **✓** #3 marked
- date and signature of plaintiff or attorney for plaintiff

(Page 2)

- #4 on box must be marked
- ✓ #5 completed as appropriate
- #6 completed as appropriate
- ☑ date and signature of declarant
- ☑ date and signature of declarant
- #8 Declaration of Nonmilitary Status must be completed if defendant is not in the military.
- ☑ date and signature of declarant

Process:

- file stamp proof of service and any other supporting documents that have not been previously filed
- ille stamp the Request to Enter Default with any attachments and conform the copies

Enter the default – in "FOR COURT USE ONLY" box enter:

☑ (1) Default entered as requested on (date):

or

☑ (2) Default NOT entered as requested (state reason) – an example would be if there was an answer on file

FOR COURT USE ONLY	(1) Default entered as requested on (date): (2) Default NOT entered as requested (state reason):	
	Clerk, by, Deputy	ý

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

X	clerk's name
X	sign as deputy
X	according to your court policy you may be entering data into your case
	management system

Note:

Completion of the "For Court Use Only" section for the Default NOT entered. Reason: Depends upon each court's policy. For example if there is an answer on file and the court receives the request to enter default it is a good policy to file the request and complete the "For Court Use Only" section indicating the default was not entered as there is a response on file. This allows the court file to properly track documents submitted for filing.

DEFAULT JUDGMENT BY CLERK [CRC 388, CCP-585(a)]

This is a judgment rendered by the clerk in an action arising from a contract or a judgment for the recovery of money or damages only. The judgment may be entered immediately following the entry of default when service has been effected by other than publication. The judgment shall be entered for the <u>principal</u> amount as demanded in the complaint (or a lesser amount if any credit has been acknowledged), together with <u>interest</u> as allowed by law or as provided in the terms of the contract upon which the complaint is based, and costs against defendant.

- Open Book Accounts: You DO NOT need a copy of the written agreement.
- **Contract on Stated Amount**: You NEED the written agreement unless it is an oral agreement.
- **Promissory Note:** You NEED the original note that will be cancelled if a clerk's judgment is granted.
- Secured Note: You CANNOT enter a clerk's judgment on a secured note.
- Interest can only be awarded if it is requested in the prayer of the complaint and a commencement date is provided.
- There may only be one clerk's judgment for monies in an action.
- All parties, including DOES, not being defaulted must be dismissed.
- All causes of actions other than those for which the clerk's judgment is rendered must be dismissed.
- In Personal Injury Actions the Statement of Damages must be served pursuant to CCP §425.11 prior to granting default judgment.

Check:

☐ Clerk's Judgment

- submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
- orrect court title
- ☑ correct case name and number
- principal judgment amount
- **✓** interest
- **✓** costs
- **☑** attorney fees
- **☑** total

Process:

- ile stamp proof dismissals of does and any other defendants outstanding for which judgment is not being sought
- ĭ sign and date judgment as clerk of the court

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

- according to your court policy you may be entering data into your case management system
- X cancel any notes

DEFAULT JUDGMENT BY COURT (CCP-585(c))

This is a judgment rendered by the court. The judgment may be entered immediately following the entry of default when service has been effected by other than publication. The judgment shall be entered for the <u>principal</u> amount as demanded in the complaint (or a lesser amount if any credit has been acknowledged), together with <u>interest</u> as allowed by law or as provided in the terms of the contract upon which the complaint is based, and costs against defendant.

Check:

Court Judgment

- submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ☑ correct case name and number
- ☑ principal judgment amount
- **☑** interest
- **✓** costs
- **☑** attorney fees
- **☑** total
- \square any attachments depending upon the type of case

Process:

- file stamp dismissals of does and any other defendants outstanding for which judgment is not being sought
- ĭ route to judge for signature
- ĭ file stamp and conform copies
- according to your court policy you may be entering data into your case management system

SISTER –STATE JUDGMENT (CCP-1710.10 – 1710.65)

A sister state judgment is that part of any judgment, decree, or order of a court of a state of the United States, other than California, which requires the payment of money, but does not include a support order as defined in section 155 of the Family Code. Judgment amounts over \$25,000.00 are filed in the Superior Court. It is filed for purposes of enforcement in the county in which any judgments debtor resides – if no judgment debtor is a resident, any county in this state.

Require:

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

- Application for Entry of Judgment on Sister-State Judgment EJ-105
- Notice of Entry of Judgment on Sister-State Judgment EJ-110
- Certified or exemplified copy of foreign judgment or abstract from other state

Fee \$

Check:

- **Application for Entry of Judgment on Sister-State Judgment EJ-105**
 - submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
 - ✓ correct court title
 - ✓ correct case name
 - ✓ appropriate box must be marked

APPLICATION FOR ENTRY OF JUDGMENT ON SISTER-STATE JUDGMENT

AND ISSUANCE OF WRIT OF EXECUTION OR OTHER ENFORCEMENT
AND ORDER FOR ISSUANCE OF WRIT OR OTHER ENFORCEMENT

- ✓ #1 complete judgment creditor name
- #2 complete judgment debtor name and information
- **☑** #3 Sister-State information
- #4 indicates copy attached and relevant interest information
- ✓ #5 as appropriate

Page 2

- ✓ #6 as appropriate
- date and signature of judgment creditor or attorney

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ☑ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt

Check:

- Notice of Entry of Judgment on Sister-State Judgment EJ-110
 - submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
 - ✓ correct court title

		Fraining Institute, 2005 Filing Procedures, Civil General Filings
	$\overline{\checkmark}$	correct case name
	$\overline{\checkmark}$	#1 and 2 should be consistent with the copy of the judgment
Proces		his is just like a summons, you are issuing the document
	$\overline{\times}$	insert case number
	X	affix the court seal
	\boxtimes	insert Court Executive Officer's Name
	X	sign as Deputy Clerk according to your court policy you may be entering the data into your case management system
N T 4		
Note:		Notice of entry of judgment shall be served promptly by the judgment creditor upon the judgment debtor in the manner provided for service of summons by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate the judgment. CCP § 1710.30.
		Except as otherwise provided in this section, a writ of execution on a judgment entered pursuant to this chapter shall not issue, nor may the judgment be enforced by other means, until at least 30 days after the judgment creditor serves notice of entry of the judgment upon the judgment debtor, proof of which has been made in the manner provided by Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2. 1710.45. (a)
		 A writ of execution may be issued, or other enforcement sought, before service of the notice of entry of judgment if the judgment debtor is any of the following: (1) An individual who does not reside in this state. (2) A foreign corporation not qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code. (3) A foreign partnership which has not filed a statement pursuant to
		Section 15700 of the Corporations Code designating an agent for service of process. 1710.45. (b) The court may order that a writ of execution be issued, or may permit enforcement by other means, before service of the notice of entry of judgment if the court finds upon an ex parte showing that great or irreparable injury would result to the judgment creditor if issuance of the writ or enforcement were delayed as provided in subdivision (a). 1710.45. (c)

MOTIONS - CIVIL (CCP 1003-1010)

A motion is an application made to a court or judge for the purpose of obtaining a rule or order directing some act to be done in favor of the applicant. It is usually made within the framework of an existing action or proceeding.

PRIORITY MOTIONS – REFERENCE LIST

MOTION	DESCRIPTION	HEARING TIMELINES
Claim of Exemption	To seek an exemption on an	Not later than 30 days from the
(CCP 706.105)	earnings withholding order.	date the notice of motion was filed unless continued by the
		court for good cause
Quash Service of	Seek an order of the court to	Not more than 30 days after
Summons (CCP 418.10)	quash the service of the summons	filing of the notice.
Claim of right to possession (Unlawful detainer) (CCP 1174.3	Filed to object to the enforcement of an unlawful detainer judgment.	 If rent posted: The court issuing the writ of possession shall set and hold a hearing on the claim not less than five nor more than 15 days after the claim is filed with the court. If no rent posted: In this case, the court shall immediately set a hearing on the claim to be held on the fifth day after the filing is completed.
Quash Service of Summons (Unlawful detainer) (CCP 1167.4)	Seek an order of the court to quash the service of the summons	The time for making the motion shall be not less than three days nor more than seven days after the filing of the notice.
Summary Judgment (general civil) CCP 437(c)	A motion for a judgment on a claim about which there is no genuine issue of material fact.	Made 60 days after appearance. Served 75 days + 5 by mail. Motion heard no later than 30 days before the date of trial. Opposition filed & served not less than 14 days before hearing; reply to opposition filed & served not later than 5 days before

		hearing.
Summary Judgment	A motion for a judgment on a	A motion for summary
(Unlawful detainer)	claim about which there is no	judgment may be made at any
(CCP 1170.7)	genuine issue of material fact.	time after the answer is filed
		upon giving five days notice.
Vacate and set aside	Filed when proper service was	Served and filed at least 21
default/default judgment	not effected.	calendar days before the
(CCP 473.5)		hearing. CCP §1005

MOTIONS REFERENCE LIST

MOTIONS	DESCRIPTION	HEARING TIME LINES
1,101101		
Appointment of receiver (CCP 564)	Appointed by the court to carry our specific instructions.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Attorneys Fees (CCP 585(a))	Filed to have the court determine and order the amount of attorneys' fees.	The plaintiff shall file a written request at the time of application for entry of the default of the defendant or defendants, to have attorneys' fees fixed by the court.
Change of Venue (CCP 396)	Seeking to change venue based on lack of jurisdiction.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Compel- Attendance (CCP 2025)	To make someone appear for a deposition.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Discovery (CRC 335)	A mean of providing a party, in advance of trial, with access to facts that are within the knowledge of the other side.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Further response to admissions (CCP 2033)	Filed when further answers are required on previous admissions.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Production of Documents (CCP 2025)	Filed to obtain an order for an individual or company to produce certain documents.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Demurrer to Complaint (CCP 430)	Filed when any ground for objection to a complaint, cross-complaint, or answer appears on the	A party filing a demurrer shall serve and file therewith a notice of hearing which shall specify a hearing date in accordance with the provisions of Code of Civil

Civil Counter Fill	ng Procedures, Civil General Filir	
	face thereof.	Procedure section 1005. Demurrers shall be set for hearing not more than 35 days following the filing of the demurrer or on the first date available to the court thereafter. For good cause shown, the court may order the hearing held on an earlier or later day on notice prescribed by the court. CRC §325
Expunge Lis Pendens (CCP 405.30)	Filed to expunge the notice of pendency.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Good Faith Settlement CCP §877.6	A request the court confirm a settlement, and dismiss cross-complaints for indemnification.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Joinder (CCP 389)	To join a party to an action.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Leave to Intervene (CCP 387)	Filed by a person who has an interest in the matter that is not a named party.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Preliminary Injunction (CCP 527)	Application and order for a restraining order.	Not later than 15 days or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued.
Sanctions (CCP 2023)	Filed as a punitive measure due to misuse of discovery process.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Writ of attachment (CCP 484.010, 484.020 & 484.040)	Application and order for the issuance of a writ to secure the recovery of a claim.	Served and filed at least 21 calendar days before the hearing. CCP §1005
Writ of possession (CCP 512.010, 512.020)	Application and order for the issuance of a writ to obtain possession of property.	Served and filed at least 21 calendar days before the hearing. CCP §1005

MOTIONS – GENERAL CIVIL

☐ IMI pleadin raise th not ha	ngs – PORT ngs pr ne def ve a : the c	presented on pleading paper: CANT NOTE: It is the filing parties responsibility to make sure they have the roperly prepared, and if they do not it is the responsibility of the other party to fects. For instance, the clerk should not refuse to file a motion because it does Memorandum of Points and Authorities, or the time is incorrect. The only lerk would refuse to file the motion would be no filing fee, no signature or no vice. Notice of Motion (submitted on pleading paper) Motion (submitted on pleading paper) Memorandum of Points and Authorities
	Fee S	\$ filing fee as required under GC \$26830 unless there is a fee waiver.
Check ■ Mo		paperwork
	\frac{1}{\sqrt{1}}	filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201) correct court title plaintiff and defendant full names in case caption
		correct case number place for date and time of motion in the caption date and signature of party or attorney for party proof of service
Proces Note:	<u>ss:</u> × × ×	file stamp and conform all copies receipt the filing fee and provide the customer with a copy of the receipt according to your court policy you may be entering the data into your case management system
		An attorney-prepared ordered is required on any motion hearing unless the court orders otherwise or notice is waived. (CRC 391)
		If a proposed order is submitted, it must be lodged and served with the moving papers but not attached to them. (CRC 313(I))
		Unless the party obtains an order from the court allowing them to exceed the page limitation, there is a page limitation for the supporting memoranda. The length or responding memorandum of points and authorities shall not exceed 15 pages in length except, in motions for summary judgment or summary adjudication that limit is 20 pages. (CRC 313(d))

GOOD FAITH SETTLEMENT – AND DISMISSAL (CRC§330, CCP §§877.6, 1005)

This is important for the clerk to know as tracking an action needs to be taken by the clerk in a certain time period.

A motion or application for determination of good faith settlement may include a request to dismiss a pleading or a portion of a pleading. The notice of motion or application for determination of good faith settlement shall list each party and pleading or portion of pleading affected by the settlement and the date on which the affected pleading was filed.

A settling party may give notice of settlement to all parties and to the court, together with an application for determination of good faith settlement and a proposed order. The application shall indicate the settling parties, and the basis, terms, and amount of the Settlement. The notice, application, and proposed order shall be given by certified mail, return receipt requested. Proof of service shall be filed with the court. Within 25 days of the mailing of the notice, application, and proposed order, or within 20 days of personal service, a nonsettling party may file a notice of motion to contest the good faith of the settlement. If none of the nonsettling parties files a motion within 25 days of mailing of the notice, application, and proposed order, or within 20 days of personal service, the court may approve the settlement. The notice by a nonsettling party shall be given in the manner provided in subdivision (b) of Section 1005. However, this paragraph shall not apply to settlements in which a confidentiality agreement has been entered into regarding the case or the terms of the settlement.

EX PARTE APPLICATIONS – GENERAL CIVIL

The term "ex parte" signifies something done for, on behalf of, or on the application of one party only. An ex parte hearing is one in which the court hears only one side of the controversy.

California Rule of Court §379. Ex parte applications and orders

- (a) [Ex parte application] An ex parte application for an order must be accompanied by an affidavit or a declaration showing:
- (1) that, within the applicable time period under (b), the applicant informed the opposing party when and where the application would be made; or
- (2) that the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or
- (3) that, for reasons specified, the applicant should not be required to inform the opposing party.
- **(b)** [Time of notice; time of notice in unlawful detainer proceedings] A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice provided that the notice given is reasonable.
- (c) [Filing and presentation of the ex parte application] The clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration, notwithstanding the failure of an applicant to comply with the notification requirements in (b).

(d) [Contents of application]

- (1) An ex parte application for an order must state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of such party if known to the applicant.
- (2) If an ex parte application for an order has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of any previous applications and the court's actions.

(e) [Contents of notice and declaration regarding notice]

- (1) When notice of an ex parte application is given, the person giving notice must state with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application, and must attempt to determine whether the opposing party will appear to oppose the application.
- (2) Every ex parte application must be accompanied by a declaration regarding notice that states:
- (A) the notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected; or

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

- (B) why notice should not be required.
- (3) If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain:
- (A) the exceptional circumstances that justify the shorter notice, or
- (B) in unlawful detainer proceedings, why the notice given is reasonable.
- **(f)** [**Required documents**] An ex parte application must be in writing and include all of the following:
- (1) An application containing the case caption and stating the relief requested;
- (2) A declaration in support of the application making the factual showing required under (g);
- (3) A competent declaration based on personal knowledge of the notice given under (e);
- (4) A memorandum of points and authorities; and
- (5) A proposed order.
- (g) [Affirmative factual showing required] An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.
- (h) [Service of papers] Parties appearing at the ex parte hearing must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made.
- (i) [Personal appearance requirements] An exparte application will be considered without a personal appearance of the applicant in the following cases only:
- (1) Applications to file a memorandum of points and authorities in excess of the applicable page limit;
- (2) Setting of hearing dates on alternative writs and orders to show cause; and
- (3) Stipulations by the parties or other orders of the court.

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Ex Parte Application (submitted on pleading paper)

Fee \$ filing fee as required under GC \$26830 unless there is a fee waiver.

Check:

Ex Parte paperwork

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ✓ plaintiff and defendant full names in case caption
- ✓ correct case number
- ☑ place for date and time of motion in the caption
- date and signature of party or attorney for party

Proces	SS:	
	X	file stamp and conform all copies
	X	receipt the filing fee and provide the customer with a copy of the receipt
	X	according to your court policy you may be entering the data into your case
		management system
	X	if appropriate set hearing
	X	route to judge for hearing or to consider the application and sign the order
Note:		
		If Alternative Writ of Mandate granted, issue the writ:
		 Affix court seal
		Insert date and Clerk's name
		Sign as Deputy Clerk
		If temporary protective or restraining orders are granted, certify copies as
		needed.

STIPULATIONS – GENERAL CIVIL

A stipulation is an agreement between adverse parties or their attorneys, relating to a matter involved in a judicial proceeding, and entered into in the manner prescribed by law. A stipulation in proper form is binding upon the parties only if it is within the authority of the parties or their attorneys. An authorized stipulation in proper form, h

	ary to law, court rule, or policy, is binding upon the court. Stipulations are in which case they are entered in the minutes or they are written, in which
they are file	d with the clerk.
Require:	
Pleadings –	presented on the forms as Approved for Optional use by the Judicial Council: Stipulation (submitted on pleading paper)
Fee S	filing fee as required under GC §26830 unless there is a fee waiver.
Check:	
Stipulati	on
$\overline{\checkmark}$	filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
$\overline{\checkmark}$	correct court title
\checkmark	plaintiff and defendant full names in case caption
$\overline{\checkmark}$	correct case number
$\overline{\checkmark}$	date and signature of all parties and their attorneys, or just the attorney for

Process:

party

file stamp and conform all copies \times X receipt the filing fee and provide the customer with a copy of the receipt \times according to your court policy you may be entering the data into your case management system if appropriate set hearing \times route to judge for hearing or to consider the application and sign the order

date and signature of all parties and their attorneys, or just the attorney for

Note:

If Alternative Writ of Mandate granted, issue the writ:

- Affix court seal
- Insert date and Clerk's name
- Sign as Deputy Clerk
- If temporary protective or restraining orders are granted, certify copies as needed.

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

COMPLAINT IN INTERVENTION – GENERAL CIVIL (CCP §387)

Upon timely application, any person, who has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both, may intervene in the action or proceeding. An intervention takes place when a third person is permitted to become a party to an action or proceeding between other persons, either by joining the plaintiff in claiming what is sought by the complaint, or by uniting with the defendant in resisting the claims of the plaintiff, or by demanding anything adversely to both the plaintiff and the defendant, and is made by complaint, setting forth the grounds upon which the intervention rests, filed by leave of the court and served upon the parties to the action or proceeding who have not appeared in the same manner as upon the commencement of an original action, and upon the attorneys of the parties who have appeared, or upon the party if he has appeared without an attorney, in the manner provided for service of summons or in the manner provided by Chapter 5 (commencing with Section 1010) Title 14 of Part 2. A party served with a complaint in intervention may within 30 days after service move, demur, or otherwise plead to the complaint in the same manner as to an original complaint.

Require:

Pleadings – presented on pleading paper

Fee \$ filing fee as required under GC \$72055 unless there is a fee waiver.

Leave of Court (court order granting the filing of the document)

Check:

Complaint in Intervention

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ plaintiff and defendant full names in case caption
- ☑ full name of intervener in case caption
- ☑ date and signature of party or attorney for party
- ☑ completed proof of service on all other parties or their attorneys of record

Process:

- ile stamp and conform all copies
- □ receipt the filing fee and provide the customer with a copy of the receipt
- according to your court policy you may be entering the data into your case management system

WRIT OF EXECUTION (MONEY/POSSESSION)

A WRIT OF EXECUTION is an order issued by the clerk of the court commanding a sheriff, constable, marshal or other officer to levy upon assets or personal property; levy against wages under the Wage Garnishment Law; or seize property to satisfy an outstanding judgment against the judgment debtor(s). The levying officer is required to return the writ to the court, together with a report of actions taken and an accounting of the amounts collected and costs incurred at the earliest of the following times:

- (1) Two years from date writ issued.
- (2) Promptly after duties under writ are performed.
- (3) When return is requested in writing by judgment creditor.
- (4) If no levy is made within 180 days after its issuance, promptly after expiration of 180-day period.
- (5) Upon expiration of time for enforcing money judgment.

Writs may issue successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county *unless* the prior writ is first returned.

A writ of execution is enforceable up to 10 years after the date of entry of a money judgment or a judgment for possession or sale of property. If a money judgment is payable in installments, the 10-year period of enforceability runs as to each installment from the date the installment becomes due and runs as to costs from the date the costs are added to the judgment.

The court is the "issuing" agency. A writ of execution being sent to the court for issuance is to be prepared by the judgment creditor [or creditor's attorney, or assignee of record] on an approved Judicial Council form or facsimile thereof. A fee for issuance of the writ is required.

REFERENCE - CCP 699.020, 699.030, 699.040, 699.060, 699.070, 699.080, 699.510, 699.520, 699.560, 712.010, 712.020, 712.030, 712.040, 714.010, 714.020, 715.010, 1166a, 1169; GC 6103, 6103.5; PENAL CODE 115.3

PAYMENT BY DEBTOR OF JUDGMENT DEBTOR - CCP 699.020

At any time after delivery of a writ of execution to a levying officer and before its return, a person indebted to the judgment debtor may pay to the levying officer the amount of the debt or so much thereof as is necessary to satisfy the money judgment. The levying officer shall give a receipt for the amount paid and such receipt is a discharge for the amount paid.

LEVY ON PROPERTY IN PRIVATE PLACE - CCP 699.030 (EXCERPT)

If personal property sought to be levied upon is located in a private place of the judgment debtor:

- (a) The levying officer making the levy shall demand delivery of the property by the judgment debtor and shall advise the judgment debtor that the judgment debtor may be liable for costs and attorney's fees incurred in any further proceedings to obtain delivery of the property. If the judgment debtor does not deliver the property, the levying officer shall make no further effort to obtain custody of the property and shall promptly notify the judgment creditor of the failure to obtain custody of the property.
- (b) The judgment creditor may apply to the court ex parte, or on noticed motion if the court so directs or a court rule so requires, for an order directing the levying officer to seize the property in the private place... In such a case, the court shall make such orders as may be appropriate.

TURNOVER ORDER IN AID OF EXECUTION - CCP 699.040 (EXCERPT)

- If a writ of execution is issued, the judgment creditor may apply to the court ex parte... for an order directing the judgment debtor to transfer to the levying officer either or both of the following:
 - (1) Possession of the property sought to be levied upon...
 - (2) Possession of documentary evidence of title to property ...

- The court may issue an order pursuant to this section upon a showing of need for the order.
- The order shall be personally served on the judgment debtor and shall contain a notice to the judgment debtor that failure to comply with the order may subject the judgment debtor to arrest and punishment for contempt of court.

RELEASE OF PROPERTY FROM LIEN AND CUSTODY - CCP 699.060 (EXCERPT)

The levying officer shall release property levied upon when the levying officer receives a written direction to release the property... from the judgment creditor or when the levying officer receives a certified copy of a court order for release...

APPOINTMENT OF RECEIVER, SALE, OR OTHER ACTION TO PRESERVE VALUE OF PROPERTY - CCP 699.070 (EXCERPT)

The court may appoint a receiver or order the levying officer to take any action the court orders that is necessary to preserve the value of property levied upon...

LEVY BY REGISTER PROCESS SERVER - CCP 699.080 (EXCERPT)

A registered process server may levy under a writ of execution...

ISSUANCE OF WRIT OF EXECUTION - CCP 699.510 (EXCERPT)

... after entry of a money judgment, a writ of execution shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the levy is to be made and to any registered process server. A separate writ shall be issued for each county were a levy is to be made. Writ may be issued successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned...

CONTENTS OF WRIT OF EXECUTION - CCP 699.520 (EXCERPT)

The writ of execution shall require the levying officer to whom it is directed to enforce the money judgment and shall include the following information:

- (a) The date of issuance of the writ.
- (b) The title of the court where the judgment is entered and the cause and number of the action.
- (c) The name and address of the judgment creditor and the name and last known address of the judgment debtor.
- (d) The date of the entry of the judgment and of any subsequent renewals and where entered in the records of the court.
- (e) The total amount of the money judgment as entered or renewed, together with costs thereafter added... and the accrued interest on the judgment from the date of entry or renewal of the judgment to the date of issuance of the writ, reduced by any partial satisfactions and by any amounts no longer enforceable.
- (f) The amount required to satisfy the money judgment on the date the writ is issued.
- (g) The amount of interest accruing daily on the principal amount of the judgment from the date the writ is issued.
- (h) Whether any person has requested notice of sale under the judgment...
- (i) The sum of the fees and costs added to the judgment pursuant to Section 6103.5 or 68511.3 of the Government Code and which is in addition to the amount owing to the judgment creditor on the judgment.
- (j) Whether the Writ of Execution includes any additional names of the Judgment Debtor, pursuant to an affidavit of identity, as defined in Section 680.135.

RETURN OF WRIT OF EXECUTION - CCP 699.560 (EXCERPT)

- ... the levying officer to whom the writ of execution is delivered shall return the writ to the court, together with a report of the levying officer's actions and an accounting of amounts collected and costs incurred, at the earliest of the following times:
 - (1) Two years from the date of issuance of the writ.
 - (2) Promptly after all of the duties under the writ are performed.
 - (3) When return is requested in writing by the judgment creditor.
 - (4) If no levy takes place under the writ within 180 days after its issuance, promptly after the expiration of the 180-day period.
 - (5) Upon expiration of the time for enforcement of the money judgment.
- If a levy has been made... upon an interest in personal property in the estate of a decedent, the writ shall be return within the time prescribed...

• If a levy has been made under the Wage Garnishment... and the earnings withholding order remains in effect, the writ of execution shall be returned... and a supplemental return shall be made...

ISSUANCE OF WRIT OF POSSESSION OR SALE - CCP 712.010

After entry of a judgment for possession or sale of property, a writ of possession or sale shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the judgment is to be enforced. The application shall include a declaration under penalty of perjury stating the daily rental value of the property as of the date the complaint for unlawful detainer was filed. A separate writ shall be issued for each county where the judgment is to be enforced. Writs may be issued successively until the judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned.

CONTENTS OF WRIT - CCP 712.020 (EXCERPT)

A writ of possession or sale issued pursuant to this division shall require the levying officer to whom it is directed to enforce the judgment and shall include the following information:

- (a) The date of issuance of the writ.
- (b) The title of the court where the judgment for possession or sale is entered and the cause and number of the action.
- (c) The name and address of the creditor and the name and last known address of the judgment debtor.
- (d) The date the judgment was entered, and the date of any subsequent renewals, and where entered in the records of the court.
- (e) If the judgment for possession or sale includes a money judgment, the amount required to satisfy the money judgment on the date the writ is issued and the amount of interest accruing daily on the principal amount...may be included on the writ at the option of the creditor.
- (f) Whether any person has requested notice of sale under the judgment...
- (g) Any other information required to be included in the particular writ.

DELIVERY AND EXECUTION OF WRIT - CCP 712.030 (EXCERPT)

Upon delivery of the writ of possession or sale to the levying officer to whom the writ is directed, together with the written instructions of the judgment creditor, the levying officer shall execute the writ...

COLLECTION OF MONEY AMOUNTS - CCP 712.040 (EXCERPT)

A writ of possession or sale may be enforced as a writ of execution to satisfy any money judgment included in the judgment for possession or sale..

WRIT OF POSSESSION OF PERSONAL PROPERTY - CCP 714.010 (EXCERPT)

- A judgment for possession of personal property may be enforced by a writ of possession of personal property ...
- In addition to the information required... the writ of possession of personal property shall contain the following:
 - (1) A description of the property...
 - (2) The value of the property...

WRIT OF POSSESSION OF REAL PROPERTY - CCP 715.010 (EXCERPT)

- A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to Section 712.010. The application for the writ shall provide a place to indicate that the writ applies to all tenants, subtenants, if any, name claimants, if any, and any other occupants of the premises.
- In addition to the information required... the writ of possession of real property shall contain the following:
 - (1) A description of the real property...
 - (2) A statement that if the real property is not vacated within five days from the date of service of a copy of the writ on the occupant...
 - (3) A statement that any personal property remaining on the real property after the judgment creditor has been placed in possession will be sold or otherwise disposed of...
 - (4) The date the complaint was filed...
 - (5) The date or dates on which the court will hear objections to enforcement of a judgment of possession...
 - (6) The daily rental value of the property...
 - (7) If a summons, complaint, and prejudgment claim of right to possession were served upon the occupants... a statement that the

writ applies to all tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises.

• At any time the writ of possession is served or posted, the levying officer shall also serve or post a copy of the form for a claim of right to possession, unless a summons, complaint and prejudgment claim of right to possession were served upon the occupants...

WRIT OF POSSESSION; ISSUANCE AND DIRECTIONS ... (UNLAWFUL DETAINER) - CCP 1166a (EXCERPT)

Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession of a manufactured home, mobile home, or real property issued by the court and directed to the sheriff of the county, or constable or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion...

ENTRY OF DEFAULT; APPLICATION FOR RELIEF - CCP 1169 (EXCERPT

...upon written application of the plaintiff and proof of service of the summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a writ of execution thereon...

EXCEPTIONS FOR PUBLIC AGENCIES AND OFFICERS - GC 6103 (EXCERPT)

Neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the state, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service....

INCLUSION OF FILING FEE AS PART OF JUDGMENT; COLLECTION; WRIT OF EXECUTION - GC 6103.5 (EXCERPT)

• Whenever a judgment is recovered by a public agency ...either as a plaintiff or petitioner or as defendant or respondent,...no fee for any official service rendered by the clerk of the court... nor fee for service of process or notices by a sheriff, marshal, or constable has been paid,... the

clerk entering the judgment shall include as a part of the judgment the amount of the filing fee and the amount of the fee for the service or process or notices which would have been paid... No interest shall be computed or charged on the amount of the fee.

- If the remittance is not received within 45 days of the filing of a partial satisfaction of judgment in an amount at least equal to the fees due to the clerk, ...the clerk may issue a writ of execution for recovery from the public agency of those fees plus the fees for issuance and execution of the writ plus a fee for administering this section.
- The board of supervisors shall set a fee, not to exceed the actual costs of administering this section, up to a maximum of twenty-five dollars (\$25), which shall be added to the writ of execution.

<u>ALTERATION OF CERTIFIED COPY OF OFFICIAL RECORD AS</u> MISDEMEANOR - PENAL CODE 115.3

Any person who alters a certified copy of an official record, or knowingly furnishes an altered certified copy of an official record, of this state, including the executive, legislative, and judicial branches thereof, or of any city, county, city and county, district, or political subdivision thereof, is guilty of a misdemeanor.

Procedure:

The clerk will check and do the following:

NOTE	If the writ being submitted for issuance is for possession of personal or real property, the judgment must contain the description of the property being levied upon.
NOTE	Rule 982 Judicial Council legal forms shall, wherever applicable, be used by all the courts.
СНЕСК	Name and address of party, assignee, or attorney of record.
СНЕСК	Identity of party requesting the writ. The party requesting the writ should be the attorney of record or judgment creditor in pro per.

СНЕСК	Register of Actions for a judgment entered or for an order of issuance of writ.
СНЕСК	That there is not an outstanding writ to the county in which writ is being directed or 180 days has passed since issuance of prior writ to said county.
NOTE	You can have more than 1 writ outstanding at a time provided they are directed to different counties.
СНЕСК	Address of court and official title.
CHECK	Case title and case number.
СНЕСК	Item number 1 for designation of County.
СНЕСК	Item number 3 for proper judgment creditor or assignee of record.
СНЕСК	Item number 4, name of judgment debtor(s) as it appears on the judgment.
NOTE	The writ must indicate all judgment debtors named on the judgment.
СНЕСК	Item number 5, date judgment was entered.
СНЕСК	Item number 6, only applicable if judgment has been renewed.
СНЕСК	Item number 7, this is usually box (a). If box (b) is checked, item number 7 on reverse of the writ must be completed. (Note: The court must have ordered the sale after hearing.)
СНЕСК	Item number 8, this is only applicable on joint debtor judgments and item 8 on reverse must also be completed.

СНЕСК	Item number 9, this must be checked for possession on real or personal property and item 9 on reverse must also be completed.
CHECK	Item number 10, if writ is being issued on a sister-state judgment.
CHECK	Items 11 thru 18, they must reflect total amount of judgment plus any post judgment costs, interest or credits.
CHECK	Item 19(a), daily interest from date of writ at the legal rate. See interest table in this manual.
СНЕСК	Item 19(b), clerk's fees and fees for service of process and notices due and payable to the clerk and serving officer respectively under GC Section 6103.5.
NOTE	The fees and costs under item 19(b) are added by the clerk to recover official services rendered by the clerk or serving officer when requested by a public entity.
СНЕСК	Item 20, if the amounts called for in items 11-19 are different for each debtor, a separate attachment for each debtor stating items 11-19 must be attached.
DO THIS	Affix the court seal in the box as indicated on the original only.
DO THIS	Place the writ is issued in the box as indicated.
DO THIS	Sign your name on the original next to Clerk, by
DO THIS	Conform copies with date and name stamp.
DO THIS	Collect filing fee and issue a receipt.

DO THIS Make an entry on the Register of Actions.

Suggested Register Entry:

01/04/2005 Writ of Execution issued to (county)

in the sum of \$_

RN0004 \$(fee) 010/4/2005

ABSTRACT OF JUDGMENT - Issuance

An **ABSTRACT OF JUDGMENT** is a summary of a judgment or decree, ordered by the court, requiring the payment of money. One of the most common functions of an abstract of judgment is to permit recordation of a judgment with the county recorder. This will effectively place a lien and prevent the transfer of real property by the judgment debtor, until the judgment is satisfied. The abstract of judgment is issued by clerk at the request of the judgment creditor. The clerk requires a fee for issuance and may issue as many abstracts of judgment as the judgment creditor requests.

REFERENCE - CCP 488.480, 674, 700.190

FINAL MONEY JUDGMENT - CCP 488.480 (EXERPT)

- As used in this section, "final money judgment" means a money judgment after the time for appeal from the judgment has expired or, if an appeal is filed, after appeal has been finally determined.
- To attach a final money judgment...

ABSTRACT OF JUDGMENT OR DECREE; CONTENTS; AMENDMENT - CCP 674 (EXCERPT)

...an abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

- (1) The title of the court where the judgment or decree was entered and cause and number of the action.
- (2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.
- (3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.
- (4) The name and address of the judgment creditor.

Civil Counter Filing Procedures, Civil General Filings

- (5) The amount of the judgment or decree as entered or as last renewed.
- (6) The social security number and driver's license number of the judgment debtor if they are known to the judgment creditor; and, if either or both such numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.
- (7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.
- (8) The date of issuance of the abstract...

FINAL MONEY JUDGMENT - CCP 700.190 (EXERPT)

- As used in this section, "final money judgment" means a money judgment after the time for appeal from the judgment has expired or, if an appeal is filed, after appeal has been finally determined.
- To attach a final money judgment...

Procedure:

The clerk will check and do the following:

NOTE	Rule 982 Judicial Council legal forms shall, wherever applicable, be used by all the courts.
СНЕСК	Name and address of party, assignee, or attorney of record.
СНЕСК	Identity of party requesting the abstract. The party requesting the abstract should be the attorney of record or judgment creditor in pro per.
СНЕСК	Address of the court and official title.
СНЕСК	Case title and case number.
СНЕСК	Name of judgment debtor. Address does not need to be verified.

CHECK	License number or Unknown box checked.
СНЕСК	Social Security number or Unknown box checked.
СНЕСК	Address where original summons served or mailed. Verify proof of service from court file.
СНЕСК	If more than one judgment debtor, all names must be listed on the reverse side of the abstract.
СНЕСК	Date, typed or printed name, and signature of applicant or attorney of record for judgment creditor.
СНЕСК	Box number 2. If box 2b is checked, attach a certified copy of the judgment.
СНЕСК	Item number 3 for completion of the exact name of the judgment creditor(s) - same as it appears on the judgment.
СНЕСК	Item number 4 for completion of the exact name of the judgment debtor(s) - same as it appears on the judgment.
СНЕСК	Item number 5 for the date of the entry of judgment – same as it appears on the judgment.
СНЕСК	Item number 6 for the total amount of the judgment – same as it appears on the judgment. (Do not include any acknowledgments of credit, interest or costs after judgment.)
СНЕСК	Item number 7. This item is only applicable where there is An execution or an attachment lien endorsed on the judgment.
СНЕСК	Item number 8. Check for box A or B to be checked. If box B is checked, verify the date of the stay of enforcement.
СНЕСК	Item number 9. Box should be checked if the judgment is an installment judgment.

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

RN0001

\$ 0.00

01/04/2005

RENEWAL OF JUDGMENT

The **RENEWAL OF JUDGMENT** provisions extend the period of enforceability of a money judgment or a judgment for possession or sale of property.

The filing of the Application for and Renewal of Judgment renews the judgment in amount determined by CCP 683.150 and extends the period of enforceability of the judgment as renewed for a period of 10 years from the date the application is filed.

Upon receipt of the Application for and Renewal of Judgment and the accepting and receipting for the fee, there are 2 ways that the court can handle the renewal. They are the following:

- The clerk assigns a new case number and opens a new case file and all papers are transferred from former case to new case.
- The clerk files the documents under the current file number. They indicate on the file and register that the judgment is renewed.

Check your local court policy on how your court handles renewals.

A Notice of Renewal of Judgment is issued and service of the Notice of Renewal of Judgment together with a copy of the Application for and Renewal of Judgment may be served personally or by first class mail on the judgment debtor. Proof of service shall be filed with the court clerk.

No writ of execution may issue nor may any enforcement proceedings be commenced to enforce the judgment until proof of service is filed.

The judgment debtor has 30 days after service of the Notice of Renewal of Judgment to make a motion to vacate or modify the Renewal with the Court. A motion fee is collected.

Service of the notice Motion to Vacate or Modify the Renewal of Judgment may be made on the judgment creditor personally or by mail.

REFERENCE - CCP 683.110, 683.120, 683.130, <u>683.140</u>, 683.150, <u>683.160</u>, 683.170, 683.210, GC 26830.

RENEWAL OF JUDGMENT AUTHORIZED - CCP 683.110

- The period of enforceability of a money judgment or a judgment for possession or sale of property may be extended by renewal of the judgment as provided in this article.
- A judgment shall not be renewed under this article if the application for renewal is filed within five years from the time the judgment was previously renewed under this article.

JUDGMENT RENEWED UPON FILING OF APPLICATION; EFFECT OF RENEWAL - CCP 683.120

- The judgment creditor may renew a judgment by filing an application for renewal of the judgment with the court in which the judgment was entered.
- Except as otherwise provided...the filing of the application renews the judgment in the amount determined under Section 683.150 and extends the period of enforceability of the judgment as renewed for a period of 10 years from the date the application is filed.
- In the case of a money judgment payable in installments, for the purpose of enforcement and of any later renewal, the amount of the judgment as renewed shall be treated as a lump-sum money judgment entered on the date the application as filed.

TIME FOR FILING APPLICATION - CCP 683.130 (EXCERPT)

• In the case of a lump-sum money judgment or a judgment for possession or sale of property, the application for renewal of the judgment may be filed at any time before the expiration of the 10 year period of enforceability provided by Section 683.020 or, if the judgment is a renewed judgment, at any time before the expiration of the 10 year period of enforceability of the renewed judgment provided by Section 683.120.

- ...in case the of a money judgment payable in installments, the application for renewal of the judgment may be filed:
 - (1) If the judgment has not previously been renewed, at any time as to past due amounts that at the time of filing are not barred by the expiration of the 10-year period of enforceability provided by CCP Sections 683.020, 683.030.
 - (2) If the judgment has previously been renewed, within the time specified by subdivision (a) as to the amount of the judgment as previously renewed and, as to any past due amounts that became due and payable after the previous renewal, at any time before the expiration of the 10-year period of enforceability provided by CCP Sections 683.020 and 683.030...

CONTENTS OF APPLICATION - CCP 683.140

The application for renewal of the judgment shall be executed under oath and shall include all of the following:

- The title of the court where the judgment is entered and the cause and number of the action.
- The date of entry of the judgment and of any renewals of the judgment and where entered in the records of the court.
- The name and address of the judgment creditor and the name and last known address of the judgment debtor.
- In the case of a money judgment, the information necessary to compute the amount of the judgment as renewed. In the case of a judgment for possession or sale of property, a description of the performance remaining due.

ENTRY AND CONTENTS OF RENEWAL - CCP 683.150 (EXCERPT)

- Upon the filing of the application, the court clerk shall enter the renewal of the judgment in the court records.
- ...money judgment, the entry of renewal shall show the amount of the judgment as renewed...this amount is the amount required to satisfy the judgment on the date of the filing of the application for renewal and includes the fee for the filing of the application for renewal.
- In the case of money judgment payable in installments not previously renewed, the amount of the judgment as renewed is the total of the past due installments, the costs added...accrued interest...fee for the filing of the application...

SERVICE OF RENEWAL NOTICE REQUIRED - CCP 683.160 (EXCERPT)

- The judgment creditor shall serve a notice of renewal of the judgment on the judgment debtor. Service shall be made personally or by first-class mail and proof of service shall be filed with the court clerk...the judgment debtor has 30 days within which to make a motion to vacate or modify the renewal.
- Until proof of service if filed pursuant to subdivision (a), no writ may by issued, nor may any enforcement proceedings be commenced...

VACATION OF RENEWAL - CCP 683.170 (EXCERPT)

- The renewal of a judgment...may be vacated on any ground that would be a defense to an action on the judgment...
- Not later than 30 days after service...the judgment debtor may apply by noticed motion under this section for an order of the court vacating the renewal of the judgment. The notice of motion shall be served on the judgment creditor. Service shall be made personally or by mail.

RENEWAL DURING STAY OF ENFORCEMENT - CCP 683.210

A judgment may be renewed notwithstanding any stay of enforcement of the judgment, but the renewal of the judgment does not affect the stay of enforcement.

FILING FEE FOR RENEWAL OF JUDGMENT - GC 26830 (EXCERPT)

...the fee for filing...an application for renewal of a judgment is fourteen dollars (\$14).

Procedure:

The clerk will check and do the following:

NOTE	The Application and Notice of Renewal of Judgment is submitted by judgment creditor or assignee of record.
СНЕСК	That the attorney or party submitting the application is the attorney of record or pro per plaintiff and includes their address and telephone number.
СНЕСК	Court and branch or facility address.
СНЕСК	Case title from case in which original judgment was entered.
СНЕСК	Box for check mark on application from original judgment creditor or assignee of record.
СНЕСК	Name and address of applicant - either judgment creditor or assignee of record.
СНЕСК	Name and last known address of judgment debtor.
СНЕСК	Case number of case in which original judgment was entered.
СНЕСК	Date of entry of original judgment.
СНЕСК	Box to be checked if there is a prior renewal of judgment. Specify each case number and date of renewal of all prior renewal of judgment.

NOTE	A Judgment shall not be renewed if the application for renewal is filed within five years from the time the judgment was previously renewed. CCP 683.110(b)
СНЕСК	Box will be checked if the original judgment or judgment as renewed was a judgment for money.
СНЕСК	Sum for which original judgment was entered or in the case of renewals of judgment, sum for which latest renewal of judgment was entered.
СНЕСК	The costs that have been added to the judgment pursuant to CCP 685.070/685.090 after the previous renewal.
СНЕСК	Total of Numbers 12 and 13.
СНЕСК	Total amount of all partial satisfactions filed after entry of last renewal of judgment.
СНЕСК	Subtract 15 from 14.
СНЕСК	Accrued interest after date of entry of last renewal of judgment in amount as shown on the Application for and Renewal of Judgment. No additional declaration is required.
СНЕСК	Total amount of renewed judgment which is total of numbers 16, 17, and 18.
СНЕСК	Attachment to be included for each additional judgment debtor.
DO THIS	Collect the proper fee required to file the renewal application and issue a receipt. GC 26830(a)
DO THIS	File the Application for Renewal of Judgment and conform copies.
NOTE	If it is your local court policy to assign the renewed judgment a new case number, assign a new case number and transfer documents from the old case file to the new file.

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

NOTE Before the clerk can issue any collection procedures on the renewed

judgment, a proof of service must be filed with the court.

DO THIS Make an entry on the Register of Actions.

Suggested Register Entry:

01/04/2005 Application for Renewal of Judgment filed.

01/04/2005 Notice of Renewal issued.

01/04/2005 Renewed judgment entered for plaintiff, (name)

against defendant, (name) for

TOTAL JUDGMENT \$_____

APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION

One of a creditor's remedies for enforcement of an outstanding money judgment is for the judgment creditor to apply to the proper court for an order requiring the judgment debtor or debtor of a judgment debtor to appear before the court to furnish information and answer questions pertaining to the debtor's assets. A debtor of a judgment debtor is a third party who has in their possession or control property in which the judgment debtor has an interest for not less than \$250. This order is called an **ORDER TO APPEAR FOR EXAMINATION**.

A judgment creditor may apply to the court ex parte once every 120 days or longer, unless if upon showing of good cause to the court either ex parte or upon noticed motion for an order less than 120 days from a previous hearing and examination. The order shall contain a notice to the judgment debtor or third party in large print, that if they fail to appear on the date and time as directed on the order, they may be subject to arrest and punishment for contempt of court. The judgment creditor shall have the debtor personally served a copy of the order at least 10 days before the date set for hearing and for examination. The order must be served by a registered process server, sheriff, constable, marshal or someone specially appointed by the court.

Neither the judgment debtor nor any third party can be compelled to attend an examination outside the county of their residence or business unless the place of the hearing on the order for examination is less than 150 miles from his or her residence or place of business. However, the judgment creditor may obtain an abstract of judgment from the court in which the money judgment is entered and file the abstract in a court of similar jurisdiction in the county in which the judgment debtor resides or does business. A filing fee is collected at the time the abstract and affidavit are filed. The judgment creditor may thereafter have an appearance of judgment debtor issued for the examination of the judgment debtor.

Civil Counter Filing Procedures, Civil General Filings

REFERENCE - CCP 491.110, 708.110, 708.120, 708.140, 708.150, 708.160, 708.170, GC 72059

<u>APPLICATION AND AFFIDAVIT; ORDER FOR APPEARANCE;</u> <u>SERVICE OF ORDER; LIEN - CCP 491.110 (EXCERPT)</u>

- Upon ex parte application by the plaintiff and proof by the plaintiff by affidavit or otherwise to the satisfaction of the proper court that the plaintiff has a right to attach order and that a third person has possession or control of property in which the defendant has an interest or is indebted to the defendant in an amount exceeding two hundred fifty dollars (\$250), the court shall made an order directing the third person to appear before the court, or before a referee appointed by the court, at a time and place specified in the order, to answer concerning the property or debt. The affidavit in support or the plaintiff's application may be based on the affiant's information and belief
- Not less than 10 days prior to the date set for the examination, a copy of the order shall be:
 - (1) Served personally on the third person.
 - (2) Served personally or by mail on the judgment debtor.
- If the property or the debt is described in the affidavit or application for an order under subdivision (a) in a manner reasonably adequate to permit it to be identified, service of the order on the third person creates a lien on the defendant's interest in the property...
- The order shall contain the following statement in 14-point boldface typed if printed or in capital letters if typed: "NOTICE TO PERSON SERVED. If you fail...."
- The order is not effective unless, at the time it is served on the third person, the person serving the order tenders to the third person fees for the mileage necessary to be traveled from the third person's residence to the place of examination. The fees shall be in the same manner..."

EXAMINATION OF JUDGMENT DEBTOR - CCP 708.110 (EXCERPT)

- The judgment creditor may apply to the proper court for an order requiring the judgment debtor to appear before the court, or before a referee...at a time and place specified in the order, to furnish information to aid in enforcement of a money judgment.
- If the judgment creditor has not caused the judgment debtor to be examined during...the preceding 120 days, the court shall make an order upon ex parte application of the judgment creditor.
- If the judgment creditor has caused the judgment debtor to be examined...during the preceding 120 days, the court shall make the order if the judgment creditor by affidavit or otherwise shows good cause for the order. The application shall be made on noticed motion if the court so directs or a court rule so requires. Otherwise it may be made ex parte.
- The judgment creditor <u>shall personally serve</u> a copy of the order on the judgment debtor not less than 10 days before the date set for examination. Service shall be made in the manner specified in section 415.410...
- The order shall contain a statement in large 14-point boldface type if printed or in capital letters if typed: "NOTICE TO JUDGMENT DEBTOR. If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court and the court may make an order requiring you to pay the reasonable attorney's fees incurred by the judgment creditor in this proceeding."

EXAMINATION OF THIRD PERSON - CCP 708.120 (EXCERPT)

• Upon ex parte application by a judgment creditor who has a money judgment and proof by the judgment creditor by affidavit...to the satisfaction of the court that a third person has possession...of property in which the judgment debtor has an interest...to the judgment debtor in an amount exceeding ...\$250.00, the court shall make an order directing the third person to appear before the court...at a time and place specific in the order...

- Not less than 10 days prior to the date set for examination, a copy of the order shall be:
 - (1) Served personally on the third person.
 - (2) Served personally or by mail on the judgment debtor.

POWERS AND QUALIFICATION OF REFEREE - CCP 708.140 (EXCERPT)

- The examination proceedings authorized by this article may be conducted by a referee appointed by the court...
- On a member of the State Bar of California is eligible for appointment as a referee...

<u>APPEARANCE AT EXAMINATION BY REPRESENTATIVES OF</u> <u>ORGANIZATIONS - CCP 708.150 (EXCERPT)</u>

- If a corporation, partnership, association, trust, or other organization is served with an order to appear for examination, it shall designate to appear and be examined one or more officers, directors, managing agents, or other persons who are familiar with its property and debts.
- If the order to appear for examination requires the appearance of a specified individual, the specified individual shall appear for the examination and may be accompanied by one or more officers, directors, managing agents, or other persons...
- If the order to appear for examination does not require the appearance of a specified individual, the order shall advise the corporation, partnership, association, trust, or other organization of its duty to make a designation...

PROPER COURT FOR EXAMINATION; EXAMINATION OUTSIDE COUNTY WHERE JUDGMENT ENTERED - CCP 708.160 (EXCERPT)

• Except as otherwise provided... the proper court for examination of a person ... is the court in which the money judgment is entered.

- A person sought to be examined may not be required to attend an
 examination before a court located outside the county in which the person
 resides or has a place of business unless the distance from the person's
 place of residence or place of business to the place of examination is less
 than 150 miles.
- If a person sought to be examined does not reside or have a place of business in the county where the judgment is entered, a court of similar jurisdiction in the county where the person resides or has a place of business is the proper court for examination of the person...
- If the judgment creditor seeks an examination of a person before a court other than the court in which the judgment is entered, the judgment creditor shall do the following:
 - (1) File in the court from which the order is sought an abstract of judgment in the form prescribed by Section 674 CCP.
 - (2) Present to the court an affidavit in support of the application for the order stating the place of residence or place of business of the person sought to be examined.
 - (3) Make any necessary affidavit or showing for examination required by Section 708.110 CCP or 708.120 CCP.
 - (4) At the time of filing the abstract of judgment, pay the filing fee of \$20*. No law library fee shall be charged.

*Note: Stats.1993,c.158 (A.B.392), Sec. 18, eff. July 21, 1993.

FAILURE TO APPEAR FOR EXAMINATION; PENALTY FOR UNJUSTIFIED ARREST - CCP 708.170 (EXCERPT)

- If an order requiring a person to appear for an examination was served by a sheriff, marshal, constable, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:
 - (1) The court may, pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

Civil Counter Filing Procedures, Civil General Filings

- (2) If the person's failure to appear is without good cause, the judgment creditor shall be awarded reasonable attorney's fees... *Attorney's* awarded against the judgment debtor and shall be added to and become part of the principal amount of the judgment.
- A person who willfully makes an improper service of an order for an examination, which subsequently results in the arrest...is guilty of a misdemeanor.

FEE; ABSTRACT OF JUDGMENT; RECEIVING AND FILING – GC 72059

The fee for receiving and filing an abstract of judgment rendered by a judge of another court and for subsequent services based on it is twenty dollars (\$20). Amended 7/29/93.

Procedure:

HELD IN COURT WHERE JUDGMENT IS ENTERED

The clerk will check and do the following:

СНЕСК	For current, completed Judicial Council form and clerk's issuance fee of \$14 from party requesting order.
СНЕСК	For attorney or party without attorney name and address. It must be the attorney of record for the judgment creditor, or the judgment creditor in pro per.
NOTE	If the judgment creditor is proceeding without an attorney, who previously represented them in prior proceedings, a substitution of attorney is required prior to issuance of the order to appear.
СНЕСК	District and address of facility holding records.
СНЕСК	Case title and case number.
СНЕСК	Appropriate box is checked; i.e. Enforcement of Judgment; Attachment (Third Person); Judgment Debtor; Third person.

Civil Counter Filing Procedures, Civil General Filings

CHECK Register of Actions to determine if order of examination may properly issue.

CHECK Is the order to appear for examination for the judgment debtor; or is it for a debtor of a judgment debtor. If it is for the debtor of a judgment debtor, does the necessary

affidavit supporting the application pursuant to CCP 491.110 or CCP 708.120 accompany the order?

NOTE Judicial review is required of the affidavit supporting the order for the examination of a third party (debtor of a judgment debtor). Follow local court policy for submitting

matters to the court for their review and order.

CHECK Is the order to appear for examination for debtor who resides or has a place of business in this county or within

150 miles of the place of examination?

NOTE A judgment debtor shall not be required to attend for examination, unless debtor's residence, or place of business is in the county or within 150 miles of the place of

examination. See <u>Held in Court Located Outside the</u> <u>County Where Judgment was Entered</u> - following pages.

CHECK Has the judgment debtor been examined in less than 120

days from previous examination?

NOTE The judgment creditor may apply to the court, by filing an

affidavit (ex parte), showing good cause to the court as to why an order is being sought for debtor to appear and answer questions as to assets less than 120 days from a previous hearing and examination. Follow local court policy in referring application to the court for judicial

review and order.

CHECK Application for date, typed or printed name of declarant

and signature of declarant.

CHECK Item number 1. Name of person being ordered to appear.

If the judgment debtor is a corporation, partnership, association, trust, or other organization, it is their duty to designate an officer, director, managing agent or other person who is familiar with their assets to appear for the judgment debtor hearing. The judgment creditor may elect

Civil Counter Filing Procedures, Civil General Filings

to designate a specified individual; if so, the name of the individual and their position with the corporation, partnership, association, trust or other organization should be stated.

CHECK Item number 2. Box "a" should be checked for examination of the judgment debtor; box "b" and "c" for

third person examination.

CHECK Date, time and division/department for completion and is

correct for your court's calendar. Verify for correct address

of the court or place of hearing.

DO THIS Complete item number 3. Follow local court policy re date

and signature of judge or referee.

NOTE Most courts will authorize the clerk to date and use a bench

officer's facsimile for issuance of the order to appear by the judgment debtor. As to a third party, judicial review and

approval is required prior to issuance.

DO THIS Collect clerk's filing fee of \$14 and issue a receipt.

NOTE Keep copy of original order in case file, or per local court

policy.

DO THIS Conform copies.

DO THIS Make entry on the Register of Actions.

Suggested Register Entry:

01/04/2005 Application and order for appearance and

examination issued. Set for hearing on

(date) at (time) in (div/dept).

01/04/2005 RN 00005 \$14.00

HELD IN COURT LOCATED OUTSIDE THE COUNTY WHERE JUDGMENT WAS ENTERED:

A judgment debtor shall not be required to attend for examination, unless debtor's residence or place of business is in the county or within 150 miles of the place of examination. However, the judgment creditor may file an abstract of judgment and affidavit with a court of the debtor's own county and obtain an order for examination there.

An abstract of judgment from the court in which the money judgment is entered, along with an affidavit pursuant to CCP 491.150 or CCP 708.160, and filing fee of \$20 (no law library fee shall be charged) constitute the documents necessary to enable a judgment creditor to conduct an examination of the judgment debtor in a court of similar jurisdiction in the county in which the judgment debtor resides or does business.

The clerk will check and do the following:

СНЕСК	Abstract to determine if from a court of similar or lower jurisdiction.
СНЕСК	Abstract for signature of clerk and official seal of issuing court.
СНЕСК	Affidavit for verification and statement residency of debtor.
СНЕСК	Filing fee of \$20.
NOTE	The abstract of judgment from a court outside of the county and affidavit of judgment creditor constitute the first papers in the court in which judgment debtor examination is sought.
DO THIS	Apply file stamp to original abstract of judgment and affidavit.
DO THIS	Assign a new case number to original abstract and affidavit, apply new case number to all copies.

Civil Counter Filing Procedures, Civil General Filings

NOTE Follow local court policy and procedure for

maintaining appropriate judicial count for this type of

filing.

DO THIS Collect filing fee of \$20 and issue a receipt.

DO THIS Complete Register of Actions entry.

Suggested Register Entry:

01/4/94 Abstract of Judgment from the Cache

County, along with Affidavit in

support thereof filed.

01/4/94 RN 00005 \$20.00

DO THIS Refer to previous instructions re issuance for order of

examination of judgment debtor.

ORDER OF APPEARANCE OF JUDGMENT DEBTOR - Filing

The clerk, upon receiving an order of appearance of judgment debtor, along with proof of service, will check and do the following:

CHECK Register of Actions for issuance of order of appearance

of judgment debtor.

CHECK Return of service. Is it correct as to name of judgment

debtor, or debtor of judgment debtor; and that the place of residence or employment is within 150 miles of

location of your court.

NOTE Neither a judgment debtor, or debtor of a judgment

shall be required to attend before a judge or referee outside of the county in which he resides or in which he has a place of business, unless the distance is less than 150 miles from his place of residence or his place

of business to the place of hearing.

CHECK Return of service. Was order served by a sheriff,

constable, marshal or a person specially appointed in the order? If order was not serve as designated, make

Civil Counter Filing Procedures, Civil General Filings

a notation for the court to take judicial notice at the time matter is set for hearing.

NOTE If the judgment debtor fails to appear as ordered and

the order was properly served, the court may have a warrant issued for the arrest of the judgment debtor; the judgment debtor may be subject to punishment for contempt; and or may be required to pay reasonable attorney fees incurred by the judgment creditor.

DO THIS Place file stamp on original order for appearance and

examination.

DO THIS Make entry on the Register of Actions and place matter

on calendar for the designated date and time of

hearing.

Suggested Register entry:

1/4/94 Order to Appear for Examination filed

along with proof of service as to

CHAMPION PRODUCTS, INC. Matter set for hearing on THURS., 2/18/94 AT

9:00A.M. DIV., II.

ORDER TO APPEAR FOR EXAMINATION - Failure to Appear

An order to appear for examination is a proceeding established for the purpose of discovering assets of the judgment debtor and applying them to satisfaction of a judgment. If the judgment debtor fails to appear as ordered and the order was served personally, in a manner specified in Section 415.10.CCP; the judgment debtor may be subject to arrest and punishment for contempt of court and the court may make an order requiring the judgment debtor to pay reasonable attorney fees incurred by the judgment creditor in these proceedings.

The court may order a civil bench warrant, directed to the sheriff or constable to arrest and bring the judgment debtor to court or detain for a hearing on contempt.

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

The clerk will check and do the following:

СНЕСК	issuance of a	and clerk's minutes for an order of civil bench warrant as to the judgment d and served on the order to appear for
DO THIS	Complete ber	nch warrant form.
DO THIS	Present to jud	dge or referee for signature.
DO THIS	Affix court se	eal.
DO THIS	marshal for s	l bench warrant to the sheriff, constable or ervice, along with service instructions gment creditor.
DO THIS	Enter issuance	ce of warrant on the Register of Action.
Suggested Register Entry:		
	1/4/94	Bench warrant issued for (name) and forwarded to sheriff's office for service

together with check # _____.

NOTE Conform to local practice.

CIVIL MISCELLANEOUS MATTERS

IN FORMA PAUPERIS/FEE WAIVER (CRC §985)

[In the character or manner of a pauper]

The procedure for waiver of fees is a statutory provision for allowing indigent persons to proceed in litigation without the liability of court fees and costs.

Require:

Pleadings – presented on the forms as adopted for mandatory use by the Judicial Council:

- Application for Waiver of Court Fees and Costs CRC 982(a)(17)
- Order on Application for Waiver of Court Fees and Costs CRC 982(a)(18)
- Application for Waiver of Additional Fees and Costs used only if a previous waiver of court fees and costs has been granted CRC 982(a)(20)
- ☐ Order on Application for Waiver of Additional Fees CRC 982(a)(18.1)

Check:

Application for Waiver of Court Fees and Costs- CRC 982(a)(17)

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ☑ correct court title
- ☑ correct case name and number
- \square #1 complete <u>a</u> or <u>b</u> as applicable
- **✓** #2 current address
- \square #3 a and b **must** be completed
- #4, 5, 6 or 7 must be completed in accordance with the instructions on the application form, including any additional information required on the reverse side of the form. If #4 is completed, then either #5 a b or c must be completed. If #5b is checked, the social security number and date of birth must be indicated. If #5c is checked, applicant must attach documents to verify the benefits in item 4.
- ☑ the information sheet has a list of acceptable documents
- ☑ signature and date of filing party

☐ Order on Application for Waiver of Court Fees and Costs – CRC 982(a)(18)

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ✓ correct court title
- ☑ correct case name and number
- #1 should be completed with the date the application was filed
- ✓ #2 should be completed with name of applicant

Process:

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

	X	file stamp the application and conform the copies
	X	submit the application with the order to the court for signature
		If the order is granted by the court, or if the clerk is granted authority under CRC §985(d): file stamp the order complete #3 of the order as appropriate retain the application in a confidential manner in compliance with CRC §985(h)
	X X X X	If the order is denied by the court: file stamp the order complete #4 of the order as appropriate complete page 2, clerk's certificate of mailing, and mail a copy set tickle to strike the filing if the correct fees are not paid retain the application in a confidential manner in compliance with CRC §985(h)
	X X	If the court sets a hearing: file stamp the order complete #5 of the order as appropriate complete page 2, clerk's certificate of mailing, and mail a copy
In all c	ases 🗵	according to your court policy you may be entering the data into your case management system
<u>Notes:</u>		Documents submitted with application are to be filed at the same time the application is filed. CRC §985(a) You cannot require the filing party to provide their social security number, however they do have to provide documented proof of their benefits. The application is granted by operation of law unless acted upon by the court within 5 days after it is filed. In this instance the clerk must execute the form "Notice of Waiver of Court Fees and Costs" CRC §985(e). No litigant can be required to submit an application more frequently than every 4 months. CRC §985(g)(3)

Following an application and order re waiver of court fees and costs, parties may submit an application and order for waiver of additional court fees and costs. Check for completeness, file stamp application and route both documents to court for determination. See CRC §985(j) for court fees and costs appropriate for these forms.

APPLICATION FOR APPOINTMENT OF GUARDIAN AD LITEM – GENERAL CIVIL (CCP §372)

A guardian ad litem is a person appointed by the court to prosecute or defend, on behalf of a minor or incompetent, a suit to which that individual is a party. While acting in this capacity, the guardian is considered an officer of the court (rather than a party litigant) to represent the interests of the minor or incompetent in that litigation.

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Application and Order for Appointment of Guardian Ad Litem – 982(a)(27)

Check:

Application and Order for Appointment of Guardian Ad Litem - 982(a)(27)

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ☑ plaintiff and defendant full names in case caption
- ✓ #1 completed as appropriate
- **☑** #2, 3, 4 & 5a completed

Page 2

- ☑ 5b, c or d completed as appropriate
- #6 one box must be marked
- #7 completed as appropriate
- \square date and signature of all plaintiffs or attorney for plaintiffs
- ✓ consent of proposed guardian ad litem

Process:

- In route to judge for signature
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

Note:

- ♦ An individual cannot act as a guardian ad litem unless he/she is represented by an attorney or is an attorney.
- ◆ **Plaintiff minor** If the Plaintiff minor is 14 years of age or under, the application for appointment must be made by a relative or friend. (CCP 373(a).
- ◆ **Defendant minor** If the Defendant minor is over 14 years of age and applies within 10 days of service of the summons, the minor is the petitioner. CCP 373(b). If the minor is 14 years of age or under or neglects to apply within 10 days, the petition is made by a relative or friend or by any other party to the action, or by the court on its own motion

SUBSTITUTION OF ATTORNEY CCP §284

The substitution of attorney is a document filed with the clerk to place the court on formal notification that there has been a change in the attorney of record for a particular party. This particular change in attorney has been done with the consent of both the client and the attorney(s).

Require:

Pleadings – presented on the form as adopted for use by the Judicial Council:

- Substitution of Attorney MC-050
- Proof of Service (reverse of form)

Check:

Substitution of Attorney

- ☑ filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ☑ correct court title
- ☑ correct case name and number
- \square #1, 2, and 3 completed appropriately
- \square #4, 5, and 6 signatures and dates of appropriate parties
- **☑** completed proof of service on reverse

Process:

- ☑ file stamp the Substitution of Attorney and conform the copies
- ⊠ according to your court policy you may be entering the data into your case management system

MOTION TO BE RELIEVED AS COUNSEL - CIVIL (CCP §284 & CRC §376)

A notice of motion and motion to be relieved as counsel under Code of Civil Procedure section 284(2) shall be directed to the client.

Require:

Pleadings – presented on the form as adopted for use by the Judicial Council:

- Notice of Motion and Motion to be Relieved as Counsel Civil MC-051
- Order Granting Attorney's Motion to be Relieved as Counsel Civil MC-053 Fee \$ filing fee as required under GC \$26820.4 unless there is a fee waiver. (There is no fee if this is being filed in an existing personal injury action.)

Check:

Notice of Motion and Motion to be Relieved as Counsel - Civil - MC-051

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ☑ correct court title
- ✓ correct case name and number
- ✓ hearing date, dept & time completed
- #1 to completed with name and address of client
- ✓ #2 completed with hearing date and address of court
- #3 completed as appropriate

Page 2

✓ date and signature of attorney

Process:

- ⊠ file stamp and conform all copies
- ⊠ receipt the filing fee and provide the customer with a copy of the receipt
- according to your court policy you may be entering data into your case management system

Check:

☐ Order Granting Attorney's Motion to be Relieved as Counsel - Civil – MC-053

This will be lodged in the court file until the hearing

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ✓ correct court title
- ☑ correct case name and number
- ✓ hearing date, dept & time completed
- #1 to completed with name of attorney & client
- #2 completed with appearances
- #3 completed as appropriate

Civil Counter Filing Procedures, Civil General Filings

☑ #6 must have the address and phone number completed

Page 2

#8 & 9 completed as appropriate

Process:

- \boxtimes file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt
- according to your court policy you may be entering data into your case management system

THIS PAGE INTENTIONALLY LEFT BLANK

REQUEST FOR DISMISSAL (CCP §581; CRC 1233)

A dismissal is an order of judgment finally disposing of an action, motion, etc., by settling it out of court, without a trial on the issues involved. The dismissal may be requested by a party to the action and, under specific circumstances, may be entered by the clerk rather than the court.

Require:

Pleadings – presented on the form as adopted for use by the Judicial Council:

- Request for Dismissal -982(a)(5)
- Notice of Entry of Dismissal -982(a)(5.1)



DO NOT ENTER DISMISSAL IF:

- Outstanding bench warrant
- pending motion for transfer (CCP §581(h))
- pending appeal
- O order of dismissal on file
- notice of pending bankruptcy case on file
- if the action is determined to be a class action

Check:

Request for Dismissal

- ☑ filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ☑ correct court title
- ☑ correct case name and number
- ☑ "Type of Action" box checked appropriately
- ✓ #1a "with" **or** "without" prejudice indicated
- \square #1b completed indicating what is to be dismissed
 - ✓ full dismissal "entire action"
 - ☑ partial dismissal "petition only" or "other" specified
- ☑ date and signature of attorney or party without attorney
- ☑ date and signature of consenting party when a response has been filed

Notice of Entry of Dismissal -982(a)(5.1)

- ☑ filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201);
- ☑ correct court title
- ☑ correct case name and number

Process:

- ⊠ file stamp the Request and Notice of Enrty of Dismissal and conform the copies
- ⊠ complete #3, 4, 5 as appropriate
- ⊠ complete #6a, and 6b as appropriate

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings ☑ insert date and clerk's name ⊠ sign as deputy ⊠ according to your court policy you may be entering data into your case

management system

Notes:

	With Prejudice: means that the action cannot be brought before the cour
	again at a later time.
	Without Prejudice: means that the action may be brought back before the
	court at a later time.
["]	A dismissal may not be requested by a named defendant on a case

A dismissal <u>may not</u> be requested by a named defendant on a case.

PETITION FOR COMPROMISE CLAIM OF MINOR (CCP §372 ET SEQ, PC §3500 ET SEQ, CRC §378, 7.950 & 7.951)

These petitions are filed on behalf of a minor, incompetent person, or a person for whom a conservator has been appointed. They must be represented either by a Guardian ad Litem or by a guardian or conservator of their estate. – CCP 372.

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

- Petition to Approve Compromise of Claim MC-350 Order Approving Compromise of Claim – MC-351
- Fee \$ filing fee as required under GC \$26820.4 unless there is a fee waiver.

(There is no fee if this is being filed in an existing personal injury action.)

Check:

■ Petition to Approve Compromise of Claim – MC-350

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ✓ case name
- ☑ case number (if being filed in existing personal injury case)
- ✓ hearing date/time
- **✓** #1 completed
- #2 completed with claimant information

This is a 7 page form all appropriate information must be completed

Page 7

- \square #21 verify if there are attachment pages
- ☑ date and signature of attorney
- ☑ date and signature of petitioner

Process:

- if a new case: assign a case number, according to your court policy you may be entering the case into your case management system
- ĭ set the hearing date
- if filed in an existing personal injury case there is no fee
- ĭ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt
- ☑ lodge the order in the court file until the hearing

Civil Counter Filing Procedures, Civil General Filings

Check:

☐ Order Approving Compromise of Claim – MC-351

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- petitioner's name (each petitioner)
- **☑** #1, 2 & 3 completed
- **✓** #6 completed
- ☑ Page 2 and 3 completed as ordered

Process:

- ✓ Judge will sign at hearing
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

PETITION FOR CHANGE OF NAME - CCP §1275 ET SEQ

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

- Petition for Change of Name NC-100
- Order to Show Cause for Change of Name NC-120
- Fee \$ filing fee as required under GC §72055 unless there is a fee waiver.

Check:

Petition for Change of Name – NC-100

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- petitioner's name (each petitioner)
- **✓** #1 completed
- #2 completed with present name and proposed name
- ✓ #4 completed as appropriate
- ✓ #5 completed as appropriate
- ✓ #6 check attachment pages

Review attachment page

- ☑ PRINT NEW FORM AND FIGURE OUT #'S
- ☑ date and signature of all plaintiffs or attorney for plaintiffs

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ĭ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt

■ Order to Show Cause for Change of Name – NC-120

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ petitioner's name (each petitioner)
- #1 completed with present name and proposed name
- ☑ #2 assign a hearing date
- depending upon court policy either obtain the judge's signature or use the facsimile signature stamp

Civil Counter Filing Procedures, Civil General Filings

Process: \times affix the case number \times file stamp and conform copies according to your court policy you may be entering the data into your case management system Note: A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application. CCP 1277 Each person applying for a name change shall declare under penalty of perjury that he or she is not under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. If the court is not equipped with CLETS or CJIS. the clerk of the court shall contact an appropriate local law enforcement agency which shall determine whether or not the applicant is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. CCP 1279.5(e)

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

AMADOR SUPERIOR COURT CIVIL DIVISION 108 COURT STREET JACKSON, CA 95642

SUPERIOR COURT OF CALIFORNIA COUNTY OF AMADOR

In Re the Application for Change of Name of: [name], Petitioner. Subject: [name] DOB: [date of birth] SEX:) Case No.:) REQUEST FOR CLETS AND CJIS REPORT) HEARING DATE: 09/02/04 @ 8:30 A.M, DEPT. 2
To: Sheriff, County of [your counter] The above-named applicant has filed with the change of name. Pursuant to Code of Civil Procedure \$1279 California Law Enforcement Telecommunical Information System (CJIS) to determine vigurisdiction of the Department of Corrections pursuant to \$290 of the Penal Code. Please make the determination and report your	e Amador Superior Court an application for 0.5(e) this court is requesting you use the tions System (CLETS) and Criminal Justice whether or not this person is under the tor is required to register as a sex offender
Date:	By: Deputy Clerk
Code §290.	CJIS system and have determined as e jurisdiction of the Department of egister as a sex offender pursuant to Penal risdiction of the Department of Corrections.
	Citle:AMADOR COUNTY SHERIFF OFFICE

PROOF OF SERVICE OF ORDER TO SHOW CAUSE (CHANGE OF NAME)– CCP \$1277 ET SEQ

Requir Pleadin Counc	ngs –	presented on the forms as Adopted for Mandatory use by the Judicial Proof of Service of Order to Show Cause (Change of Name) – NC-121
Check Pro		Service of Order to Show Cause (Change of Name) – NC-121 filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201) correct court title petitioner's name (each petitioner) case number type of service #2 completed with address #3 a or b completed as appropriate date and signature of declarant
Proces	<u>ss:</u> X X	file stamp and conform all copies according to your court policy you may be entering the data into your case management system
Note:		Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not

less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent

pursuant to Section 413.10, 414.10, 415.10, or 415.40. (CCP 1277)

DECREE CHANGING NAME (CHANGE OF NAME)- CCP §1278 & 1279

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

■ Decree Changing Name (Change of Name) – NC-130

Check:

Decree Changing Name (Change of Name) – NC-130

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- petitioner's name (each petitioner)
- ☑ case number
- ✓ #1 completed with hearing date
- #2 a through f completed as appropriate
- #3 completed with present name and new name
- look for attachments

Process:

- **☒** submit to judge for signature
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system
- stamp "OK to Certify" on one of the Endorsed Filed Copies and instruct the party to get the Decree certified in the Clerk's Office

PETITION DECLARATION OF EMANCIPATION OF MINOR, ORDER PRESCRIBING NOTICE, DECLARATION OF EMANCIPATION AND ORDER DENYING PETITION (FC §7000 ET SEQ.)

PETITION FOR EMANCIPATION? Emancipation is a legal procedure that frees children from the custody and control of their parents or guardians before they reach the age of majority. (In California, this is age 18.) If a minor becomes emancipated, they will be able to do certain things without their parent's consent, such as:

- consent to medical treatment
- apply for a work permit
- enroll in school or college

They will also give up your right to be supported by their parents.

Even if they are emancipated:

- ◆ They must still attend school.
- ◆ They cannot get married without parental consent.
- ◆ They probably will remain under juvenile court jurisdiction, if they commit a crime.

All of the circumstances must be met in order for a judge to grant a petition for Emancipation:

- The Petitioner must be at least 14 years old.
- The Petitioner willingly lives separate and apart from their parents with the consent of their parents.
- The Petitioner has a source of income that does not come from any illegal activity.
- Emancipation would not be contrary to the Petitioners best interest.

Require:

Pleadings – presented on the forms as Adopted by the Judicial Council:

- Petition for Declaration Of Emancipation Of Minor, Order Prescribing Notice, Declaration Of Emancipation and Order Denying Petition MC-300
- Notice of Hearing Emancipation of Minor MC-305
- Emancipation of Minor Income and Expense Declaration MC-306
- Fee \$ filing fee as required unless there is a fee waiver.

Check:

Petition Declaration Of Emancipation Of Minor, Order Prescribing Notice, Declaration Of Emancipation And Order Denying Petition – MC-300

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- petitioner's name
- **✓** #1 completed
- \square #4, 5, 6, 7 or 7 completed as appropriate
- ☑ date and signature of petitioner

Civil Counter Filing Procedures, Civil General Filings

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- receipt the filing fee and provide the customer with a copy of the receipt
- **Do Not** file stamp − route it to the judge for consideration first

Check:

Emancipation of Minor Income and Expense Declaration – MC-306

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- petitioner's name
- **✓** #1, 2, 3, 4, 5, 6, 7, 8, 9 completed as appropriate
- \square date and signature of petitioner

Process:

- □ affix case number
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

Processing-Petition if No Hearing is Ordered

- ☐ The judge should sign the DECLARATION OF EMANCIPATION WITHOUT HEARING-(Backside of the original petition)
- ⊠ Complete the Clerks Certificate
- ☑ Affix the Court seal on the clerks certificate
- ☑ File stamp the petition and make entries in register of actions
- ⊠ Conform all copies

Processing-Petition if a Hearing is Ordered

Processing-Petition if Petition is Denied

- ☐ The judge should sign the DECLARATION OF EMANCIPATION WITHOUT HEARING-(Backside of the original petition)
- ⊠ Complete the clerk's certificate
- Affix the Court seal on the clerk's certificate
- according to your court policy you may be entering the data into your case management system

WRITS OF MANDATE AND PROHIBITION

From the clerk's viewpoint, writs of mandate and prohibition can be considered the same for the purposes of handling. A writ of mandate commands a party to do something and a writ of prohibition order a party not to do something. At times, a petition is filed in the alternative because legally one may not be sure that he/she wants the party to do an act (mandate) or to cease doing another act (prohibition).

Writs are commenced with the filing of a petition. The petition is to be served on the respondent and the real party in interest before filing. However, the courts have held that this requirement is directory rather than mandatory. At time of filing, an alternative writ may issue. This is like an order to show cause in which the respondent is order to do the act requested (or cease doing it) or show cause why the respondent should not. Sometimes, when a petition is filed against an administrative agency the alternative writ does not issued at once because the record of hearings before the agency is to be prepared and filed with the Court. Therefore, there is not reason to set the hearing before the record is ready.

While petitions for writs are civil actions, if they arise out a criminal action pending before a lower court, no filing fees may be charged (see Bravo V. Cabell, 11 C 3d 834).

No summons issues on a petition for writ, and the matter is calendared when the original writ is returned with service. The writ is to be served in the same manner as a summons.

The clerk may not issue an alternative writ without a court order. This may be in the form of a separate "Order Granting Alternative Writ" or the language "Let the above Writ issue" appearing at the end of the writ itself.

The respondent or the real party in interest may reply to the writ. This may be called "response" or "answer" and should always be treated as a calendar item. The petition may also be demurred to; however, unlike other demurrers, it is not notified for hearing but is heard at the time noticed for hearing the writ. Therefore, the time limits normally associated with demurrers do not apply.

Unless the court orders otherwise, the minimum time for service is 15 days, as any other motion; and any reply must be on file at least 5 days before the hearing date. A default cannot be entered on this type of petition; and a hearing must be had even though no reply is on file.

The hearing results in a judgment that is handled the same as any other civil judgment. This would be a "Judgment Granting Peremptory Writ of Mandate" or "...Prohibition" if the petitioner prevails, or a "Judgment Denying Writ" if petitioner loses.

Civil Counter Filing Procedures, Civil General Filings

If the Judgment grants the writ, a peremptory writ issues upon payment of the writ fee (unless a criminal action is involved as stated above). The peremptory writ gives directions to the respondent and provides that the respondent file with the court a return within a stated period of time, usually at least 30 days, stating what the respondent has done to comply with the writ.

Judgments granting or denying writs directed to a municipal or justice court are not appealable, but may be reviewed by an appellate court by way of extraordinary writ according to CCP 904.1(a). Otherwise, judgments in writ matters may be appealed as any other judgment.

Rarely, a Writ of Certiorari, or Review, may be filed in the Superior Court. If filed, this writ is handled as the others.

The statutory authority for these writs may be found in Sections 1067 – 1110b of the Code of Civil Procedure.

Civil Counter Filing Procedures, Civil General Filings

SUBPOENA AND SUBPOENA DUCES TECUM (CCP §§1985 - 1989, and GC 68093, 680971.1 and 68097.2)

A subpoena is a writ or order directed to a person requiring his or her attendance at a particular time and place to testify as a witness.

The clerk shall issue a subpoena or subpoena duces tecum signed and sealed but **otherwise blank** to a party requesting it, who shall fill it in before service. An attorney at law who is the attorney or record in an action or proceeding may sign and issue a subpoena to require attendance before the court in which the action or proceeding is pending or at the trial of an issue therein, or upon the taking of a deposition in an action or proceeding pending therein; the subpoena in such a case need not be sealed by the court.

Note:

Except as provided in Government Code Sections 68097.1 to 68097.10, inclusive, the service of a subpoena is made by showing the original, and delivering a copy to the witness personally, fees to which he/she is entitled for travel to and from the place designated and one day's attendance there. The service must be made so that the witness is allowed reasonable time for preparation and travel to place of attendance.

WHAT ARE UNLAWFUL DETAINERS?

When a landlord wants to end a tenancy and the tenant won't get out voluntarily, the landlord must take certain legal steps to do so. Until these steps are taken, the tenant has a right to peaceful possession of the rented premises and the right to exclude anyone, including the landlord. Unless a tenant vacates voluntarily, a landlord must have a valid writ of execution of possession to reacquire possession of the premises.

An unlawful detainer proceeding under CCP 1159-1179a is a summary method for recovery of possession of leased premises. It is a proceeding designed to permit a landlord to recover possession of real property from a tenant who is wrongfully in possession.

An Unlawful Detainer is the unjustifiable retention of the possession of lands by one whose original entry was lawful and of right, but whose right to the possession has terminated and who refuses to quit, as in the case of a tenant holding over after the termination of the lease and in spite of a demand for possession by the landlord.

THINGS YOU NEED TO KNOW ABOUT UNLAWFUL DETAINERS

Unlawful Detainers are referenced in the Civil Code of Procedures beginning with Section 1159 – 1179a.

Answers – Defendants have five days to respond to to an unlawful detainer action upon completion of service. The timeframes for counting the five days are as follows:

Do weekends count?	Yes, weekends are included in the counting of the 5 days.
	If the last (5 th) day to file the response falls on a Saturday or Sunday, the response period shall then be extended to and include the next court day.
Do Judicial holidays count?	No, if the last (5 th) day to file the response falls on a Saturday or Sunday or a Judicial Holiday, the response period shall then be extended to and include the next court day. (CCP 1167)

© CONFIDENTIALLITY: CCP §1161.2. (a) Except as provided in subdivision (e)☆ or (f)৵, in any case filed under this chapter as a limited civil case, the court clerk may not allow access to the court file, index, register of actions, or other court records until 60 days after the date the

complaint is filed, except pursuant to an ex parte court order upon a showing of good cause therefore by any person including, but not limited to, a newspaper publisher. However, the clerk of the court shall allow access to the court file to a party in the action, an attorney of a party in the action, or any other person who (1) provides to the clerk the names of at least one plaintiff, one defendant, and the address, including the apartment, unit, or space number, if applicable, of the subject premises, or (2) provides to the clerk the name of one of the parties or the case number and can establish through proper identification that he or she resides at the subject premises. CCP 1161.2(a)

- (e) If a defendant prevails in the action within 60 days after the complaint is filed, the court clerk may not allow access at any time to any of the documents specified in subdivision (a).
- A (f) This section does not apply to a case that seeks to terminate a mobilehome park tenancy if the statement of the character of the proceeding in the caption of the complaint clearly indicates that the complaint seeks termination of a mobilehome park tenancy.

Except as provided in subdivision (f), upon the filing of any case so restricted, the court clerk shall mail notice to each defendant named in the action. The notice shall be mailed to the address provided in the complaint. The notice shall contain a statement that an unlawful detainer complaint (eviction action) has been filed naming that party as a defendant, and that access to the court file will be delayed for 60 days except to a party, an attorney for one of the parties, or any other person who (1) provides to the clerk the names of at least one plaintiff and one defendant in the action and provides to the clerk the address, including any applicable apartment, unit, or space number, of the subject premises, or (2) provides to the clerk the name of one of the parties in the action or the case number and can establish through proper identification that he or she lives at the subject premises. The notice **shall** also contain a statement that access to the court index. register of actions, or other records is not permitted until 60 days after the complaint is filed, except pursuant to an ex parte order upon a showing of good cause therefore. The notice shall contain on its face the name and telephone number of the county bar association and the name and telephone number of an office funded by the federal Legal Services Corporation that provides legal services to low-income persons in the county in which the action is filed. The notice shall state that these numbers may be called for legal advice regarding the case. The notice shall be issued between 24 and 48 hours of the filing of the complaint, excluding weekends and holidays. One copy of the notice shall be addressed to "all occupants" and mailed separately to the subject premises. The notice shall not constitute service of the summons and complaint.

Civil Counter Filing Procedures, Civil General Filings

If a defendant prevails in the action within 60 days after the complaint is filed, the court clerk may not allow access at any time to any of the documents specified in subdivision (a). CCP 1161.2(e)

- Filing fees: differ from county to county but they are different for all three jurisdictional amounts as specified above.
- Jurisdictional Limits in unlawful detainers are as follows:

\$0.01 - \$10,000.00	Limited Civil
\$10,000.01 - \$25,000	Limited Civil
\$25,000.00 – Unlimited	Unlimited Civil

Notices: The named defendants must be served with either a 3-day, 30-day or a 60-day notice to pay rent or quit unless there is an expiration of a fixed-term tenancy. The differences are:

3-Day Notice to pay rent or quit	When a tenant breached a covenant in the lease, which cannot be cured. CCP 1161(d)
30-Day Notice to pay rent or quit	When a landlord wants to terminate the signed lease. CC 1946.1
60-Day Notice to pay rent or quit	When a landlord wants to terminate the lease. (without a renewed/signed lease) CC 1946.1(b)

Parties:

The Plaintiff must be one of the following:

- Landlord
- Property Manager (Only if the property manager signed the lease)

THIS PAGE INTENTIONALLY LEFT BLANK

COMPLAINT - UNLAWFUL DETAINER CCP §1166

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

- ☐ Complaint Unlawful Detainer 982.1(90)
- Summons Unlawful Detainer SUM-130
- Civil Case Cover Sheet CM-010

Fee \$ filing fee as required under GC §72055 unless there is a fee waiver.

Check:

Complaint – 982.1(90)

- ☑ filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ plaintiff and defendant full names in case caption
- ☑ jurisdiction completed
- ✓ #1 completed with all plaintiff's names
- #2 completed as appropriate
- ✓ #3 address of the premises must complete
- ✓ #4 as appropriate
- ✓ #6 a & b date and names of defendants
- \square 7, 8, & 9 as appropriate
- ☑ #10 complete if plaintiff is seeking past due rent
- ☑ #11 complete if plaintiff is seeking fair rental per day
- ☑ #12, 13, 14, 15 & 17 as appropriate
- ☑ #18 number of pages attached (any notices, agreements, etc.)
- ☑ date and signature of all plaintiffs
- \square verification is dated and signed, if complaint is signed by an attorney a separate verification must be attached \triangleleft .

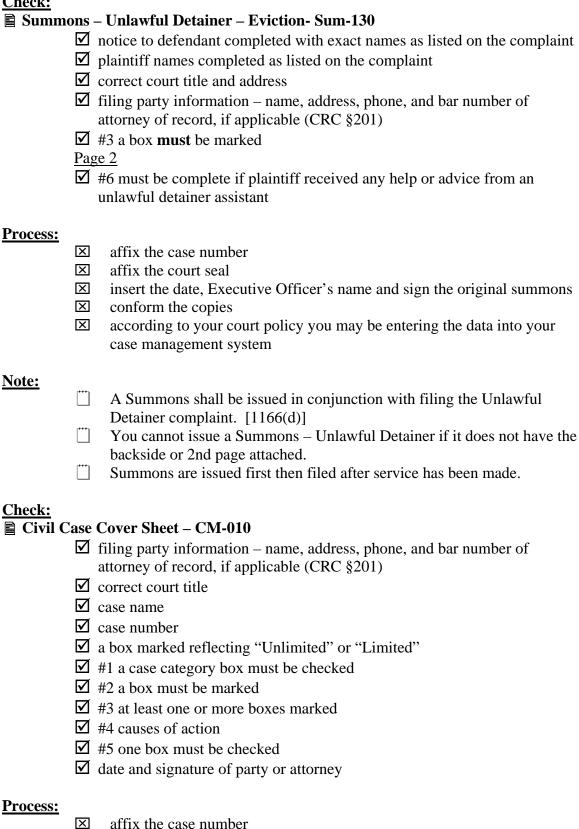
Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ĭ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt
- **□** prepare and mail notice to defendant pursuant to CCP 1161.2(c)

 \times

Civil Counter Filing Procedures, Civil General Filings

Cho	eck	
-----	-----	--



insert name of judge and department pursuant to your court policy

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

	X	file stamp and conform the copies according to your court policy you may be entering the data into your case management system
Note:		The Civil Case Cover Sheet only needs to be served on the defendant if the plaintiff indicates on the cover sheet that the case is complex under Rule 1800 et seq. CRC 201.8

THIS PAGE INTENTIONALLY LEFT BLANK

PROOF OF SERVICE – SUMMONS UNLAWFUL DETAINER

The proof of service is the document filed with the court record to provide formal proof that a summons and complaint were served on the defendant(s) in the action. It can be used to establish court jurisdiction over the defendant as well. The proof of service contains an affidavit of the person effecting service showing the date and manner of service and other requirements as set forth by the Code of Civil Procedure.

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Proof of Service of Summons – POS-010

Note: Original Summons & Return of Summons Within Three-Year Period

CCP §583.210 requires that the summons be both served and returned -- that is, filed, together with the proof of service – within three years plus 60 days after the filing of the original complaint. (Kaiser Foundation Hospitals v. Superior Court (1975) 49 Cal.App.3d 523, 525-526; Bernstein v. Superior Court (1969) 2 Cal.App.3d 700, 703; Lambert v. Conrad (1960) 185 Cal.App.2d 85, 90; A.T. & S.F.Ry.Co. v. Rollaway W.S.Co. (1951) 101 Cal.App.2d 763, 767-769.)

Check:

Proof of Service of Summons – POS-010

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- ☑ correct case name and number
- #2 a through f marked with documents that were served
- #3 name of the party that was served
- #4 address where party was served must be completed, including city and state where served
- **✓** #5 Service Information

manner of service must be marked

- a. personal service
- substituted service date and time must be filled in and the name and title or relationship of person copies were left with and 1 through 3 as appropriate; 4 must be done after substituted service;
 5 there must be a declaration of diligence attached

Page 2

This type will not typically be used in UD Actions

- c. mail and acknowledgment, **attach** completed Notice and Acknowledgment of Receipt; for an address outside California certified mail attach signed return receipt
 - d. other specify code section (this will be used for posting)
- \square #6 completed as set forth on the summons

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

 ≠7 – complete information of person who served the papers ≠8 or 9 – completed as applicable date and signature of person who served papers 			
Process:	X X	file stamp the original summons and proof of service and conform the copies according to your court policy you may be entering the data into your case management system	
Note:		Personal Service: is deemed complete on the date of delivery. Substitued Service: A copy of the summons and complaint must be left at the home or place of employment. A copy of the summons and complaint must be given to a competent member of the household or to a person apparently in charge of defendant's office or place of business, who is at least 18 years of age, and who is informed of the contents thereof. A copy of the summons and complaint must be mailed to the defendant's address where the first copy was left. Service is deemed complete on the 10 th day after mailing. CCP 116.340a), 415.20(b). Posting Service: CCP 415.45 (a)A summons in an action for unlawful detainer of real property may be served by posting if upon affidavit it appears to the satisfaction of the court in which the action is pending that the party to be served cannot with reasonable diligence be served in any manner specified in this article other than publication and that: (1) A cause of action exists against the party upon whom service is to be made or he is a necessary or proper party to the action; or (2) The party to be served has or claims an interest in real property in this state that is subject to the jurisdiction of the court or the relief demanded in the action consists wholly or in part in excluding such party from any interest in such property. (b) The court shall order the summons to be posted on the premises in a manner most likely to give actual notice to the party to be served and direct that a copy of the summons and of the complaint be forthwith mailed by certified mail to such party at his last known address.	
ľΊ	A	 (c) Service of summons in this manner is deemed complete on the 10th day after posting and mailing. (d) Notwithstanding an order for posting of the summons, a summons may be served in any other manner authorized by this article, except publication, in which event such service shall supersede any posted summons. separate proof of service is required for each defendant. 	

E-10

ANSWER – UNLAWFUL DETAINER CCP §1166

The Answer – Unlawful Detainer carries the same principals as any other type of answer. This is the defendant's formal written statement, which sets forth the grounds of his/her defense.

Require:	
Pleadings – pr	resented on the forms as Approved for Optional use by the Judicial Council:
	Answer – Unlawful Detainer – 982.1(95)
Fee \$	filing fee as required under GC §72055 unless there is a fee waiver.
Check:	
Answer –	982.1(95)
_	ourt file for a default – even if the defendant's time to answer has
	ere is no default in the court file the answer can be filed.
	filing party information – name, address, phone, and bar number of
	attorney of record, if applicable (CRC §201)
	correct court title
$\overline{\checkmark}$	plaintiff and defendant full names in case caption
lacksquare	case number
	#1 completed with all answering defendant's names
$\overline{\checkmark}$	#2 completed as appropriate
$\overline{\checkmark}$	#3 completed as appropriate
\square	#4, & 5 completed as appropriate
	#6 number of pages attached (any notices, agreements, etc.)
	#7 must be complete if assisted by an unlawful detainer assistant
	signature of all answering defendant's
lacksquare	verification is dated and signed, if answer is signed by an attorney a
D.	separate verification must be attached.
Process:	file stamp and conform all copies
X	1
×	
	case management system
Note:	·
	Defendants may use the Judicial Council form #982.1(95) or they may use
l****1	pleading paper.
[*** ₁	There is a filing fee for each named Defendant on the answer.
	A proof of service by mail is required on all answers at the time of filing .
	mme.

THIS PAGE INTENTIONALLY LEFT BLANK

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION PRE JUDGMENT– UNLAWFUL DETAINER CCP §1174.25

To eliminate post-judgment claims of a right to possession by occupants other than the tenant who has signed the lease or rental agreement, many landlords regularly serve all occupants with a form of prejudgment claim of right to possession and a copy of the summons and complaint at the same time that service is made on the tenant.

Daguina.	
Require:	rescented on the forms as Annuoved for Ontional use by the Indiaial Council.
	presented on the forms as Approved for Optional use by the Judicial Council:
Fee \$	Prejudgment Claim of Right to Possession – CP10.5
гее ф	filing fee as required under GC §72055 unless there is a fee waiver.
Check:	
	nent Claim of Right to Possession
	ourt file for a proof of service to determine service date of Prejudgment
	ght to Possession. If the document was served and is listed on the proof
of service, th	ne claimant has 10 days to file the claim. If the document was not served
	nmons and complaint the claim should be filed.
V	Claimant or claimant's Attorney name, address and telephone number
	(CRC §201)
_	correct court title
	plaintiff and defendant full names in case caption
_	case number
	1 #1 completed claimant's name
	#2 completed with claimant's residence address
	#3 completed with the address of the premises
	#4 completed as appropriate
	#10 filing fee completed
▼	#12 as appropriate
V	date and signature of claimant
Process:	
×	file stamp and conform all copies
×	÷
×	according to your court policy you may be entering the data into your
	case management system
×	
×	1.
_	notation indicating the claimant has been added as a defendant
×	
No.4aa	proof of service showing the claim was mailed to the plaintiff
Note:	Claiments have 10 days from the date of courses of the majudament stains
	Claimants have 10 days from the date of service of the prejudgment claim of right to possession to file the claim of right to possession form with the

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

court and will then be added as a defendant. The clerk shall notify the
plaintiff that the claimant has been added as a defendant in the action by
mailing a copy of the claim filed with the court to the plaintiff with a
notation so indicating. Anyone that files this form must pay a first
appearance fee. CCP §1174.25
Filing a claim of right to possession constitutes a general appearance.
CCP 1174.25(a).
When the claim is filed, the occupant is added to the complaint as a named
defendant and will have five days to answer or otherwise respond to the
complaint. CCP 1174.25(b).
Claimants will have 5 days to file an answer from the date they file the
Claim of Right to Possession with the court. If they fail to respond they
can be defaulted.

POST-JUDGMENT CLAIM OF RIGHT TO POSSESSION POST JUDGMENT– UNLAWFUL DETAINER CCP §1174.3

If a claim of right to possession is completed and presented to the sheriff, marshal, or other levying officer, the officer shall forthwith, (1) stop the eviction of the occupants at the premises, and (2) provide a receipt or copy of the completed claim of right of possession to the claimant indicating the date and time the completed form was received, and (3) deliver the original completed claims of right to possession to the court issuing the writ of possession of real property.

Within two court days after presenting the claim to the levying officer, the claimant must deliver to the court either of the following:

- An amount equal to 15 days' rent and the appropriate fee or form for proceeding in forma pauperis, in which case, the court must set and hold a hearing on the claim not less than five nor more than 15 days after the claim is filed. CCP 1174.3(c)(1).
- The appropriate fee or form for proceeding in forma pauperis without delivering the amount equal to 15 days' rent, in which case, the court must immediately set a hearing on the claim to be held on the fifth day after the filing is completed. CCP 1174.3(c)(2).

If a claim is made without delivery to the court of the appropriate filing fee or a form for proceeding in forma pauperis, as prescribed in this section (CCP 1174.3(a)(2)(1)(f)), the claim shall be immediately deemed denied and the court shall so order. Upon the denial of the claim, the court shall immediately deliver an endorsed copy of the order to the levying officer and shall serve an endorsed copy of the order on the plaintiff and claimant by first-class mail.

- If the prejudgment claim of right to possession was **not** served in accordance to section 415.46, any occupant not named in the judgment may object to the enforcement of the judgment by filing a claim of right to possession.
- A claim of right to possession may be filed at any time after service or posting of the writ of possession, up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession.
- Filing the claim of right to possession shall constitute a general appearance for which a fee shall be collected. At this point the claimant will be added as a claimant and not a defendant.
- The claimant would need to present a completed claim form in person with identification to the levying officer, and delivering to the court within two court days after its presentation, an amount equal to 15 days' rent together with the appropriate fee or form for proceeding in forma pauperis.
- Upon receipt of a claim of right to possession, the levying officer shall indicate thereon the date and time of its receipt and forthwith deliver the

- original to the issuing court and a receipt or copy of the claim to the claimant and notify the plaintiff of that fact.
- Once we receive the amount equal to 15 days' rent and the appropriate fee or form for proceeding in forma pauperis, the court shall file the claim of right to possession and serve an endorsed copy with the notice of the hearing date on the plaintiff and the claimant by first class mail. See 1174.3(3)(1)
- The court issuing the writ of possession shall set a date when the court will hold a hearing to determine the validity of objections to the enforcement of judgment.
- Set the matter for hearing not less than five days nor more than fifteen days if claimants have deposited with the court an amount equal to 15 days' rent with the court. OR;
- Set the matter for hearing immediately on the fifth day after the filing is completed if the claimant(s) have not deposited with the court an amount equal to 15 days' rent.
- If the court determines the claim is invalid, the court shall order the amount of the 15 days' rent paid by the claimant returned to the claimant. However, if the court determines that the enforcement of the judgment was delayed by reason of making the claim for the purpose of delaying the eviction process, then the money posted will be returned to the claimant less the pro rata amount for each day the enforcement of the judgment was delayed, which will be paid to the landlord.
- If the court determines the claim is valid, the amount equal to 15 days' rent paid by the claimant shall be returned immediately to the claimant.
- Now if the claim is determined to be valid, and the complaint is based upon a curable breach, i.e. tenant(s) did not pay the rent, if the claimant was not previously served with a proper notice, if any notice is required, then the required notice may at the plaintiff's discretion be served on the claimant at the hearing or thereafter.
- If the claimant does not cure the breach within the required time, then a supplemental complaint may be filed and served on the claimant as defendant if the plaintiff proceeds against the claimant in the same action. (The defendant will then have five days to answer) If the plaintiff is going to proceed against the claimant, then service of the required notice, and of the supplemental complaint may be made by first-class mail addressed to the claimant at the subject premises.
- The court will deem the complaint amended to add the claimant as a defendant and shall order the levying officer to proceed with the enforcement of the original writ of possession of real property as deemed amended to include the claimant, which shall be effected within a reasonable time not to exceed five days

Civil Counter Filing Procedures, Civil General Filings

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Claim of Right to Possession – CP10

Fee \$ filing fee as required under GC §72055 unless there is a fee waiver.

Check:

Prejudgment Claim of Right to Possession – CP10

- ☑ Claimant or claimant's Attorney name, address and telephone number (CRC §201)
- ☑ correct court title
- ☑ plaintiff and defendant full names in case caption
- ✓ case number
- ✓ #1 completed claimant's name
- ✓ #2 completed with claimant's residence address
- ☑ #3 completed with the address of the premises
- ☑ #4 completed as appropriate
- ☑ #10 filing fee completed
- ✓ #12 as appropriate
- ✓ #13 completed as appropriate
- ☑ date and signature of claimant

Process:

- ☑ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt
- according to your court policy you may be entering the data into your case management system
- ☑ add the claimant as a defendant in the case
- mail a copy of the claim filed with the court to the plaintiff with a notation indicating the claimant has been added as a defendant
- pursuant to your court policy it is a good idea for the clerk to prepare a proof of service showing the claim was mailed to the plaintiff
- *if rent is deposited notify the claimant of the hearing date and time (not less than 5 nor more than 15 days after the claim is filed), and mail notice to the plaintiff of the hearing by first class mail.
- *if no rent is deposited notify the claimant of the hearing date and time (must be set immediately on the 5th date after the claim is filed), and mail notice to the plaintiff of the hearing by first class mail.

THIS PAGE INTENTIONALLY LEFT BLANK

JURISDICTION (CCP §410.50, §410.70)

The jurisdiction of the defendant in an action is the power of the court to subject that party to decisions and rulings made in that case. Jurisdiction may be acquired by the appearance of the defendant in the action **or** by proof of proper service on the defendant. When a default is entered, the jurisdiction has usually been established by the proof of service. **Jurisdiction is obtained when the defendant is served with the summons and complaint.**

The following is a table of establishing the jurisdiction date based on the type of service:

TYPE OF SERVICE	DATE OF JURISDICTION
Personal Service CCP §415.10	Date of delivery
Substituted Service (with follow-up mailing) CCP §415.20(b)	10 th day after date of mailing (not counting date of mailing)
Posting CCP §5.45 Cohen v. Board of Supervisors for the County of Alameda (1971) 20 CalApp. 3d 236	10 th day after the first date of posting and mail

DEFAULT

(CCP §585 & §587 CRC §5.122 & 5.124)

A default is the failure to plead or otherwise defend an action. When the defendant fails to respond after service of the summons and complaint within the time period allowed, the plaintiff may then "default" them.

Once the default has been entered, the defendant **may not** appear in the case unless they have leave of Court, or they are filing a motion.

A default may NOT be entered against the defendant if the defendant has appeared in the action by filing one or more of the following (CCP §585 & CRC 5.120).

A default cannot be entered without the original proof of service and summons.

Filing Summons as a Prerequisite to Entry of Default Note:

CCP §417.30 requires that the summons must be returned (filed) after service unless the defendant has made a general appearance, and CCP §583.210 requires that the action be dismissed if the summons is not served and returned within three years and 60 days after the commencement of the action.

Note:			
	If both parties have filed pleadings, there may be no default entered on an		
	amended pleading of either party. CRC 5.108		
	If the defendant has filed any of the above motions, you may enter defaul		
	following the hearing if the ruling permits. (CCP §586, CRC §5.122)		
	The original summons must be returned and in the case file before a default		
	may be entered. If the original summons has been lost, a Declaration of Lost		
	Original Summons may be filed.		
Check:			
	Court file		
	for any of the above filings that would preclude entry of default		
	proof of service if not submitted with the request to enter default		
	Proof of Service of Summons – POS-010		
	✓ for complete information upon which to base jurisdiction (see		
	procedures under Proof of Service)		

Schedule to establish time lines for the soonest time defaults may be entered:

TYPE OF SERVICE	WHEN DEFAULT MAY BE ENTERED
Personal	day after date of
Substituted	day after date of
Posting	day after date of

REQUEST TO ENTER DEFAULT (CCP §585 & §587)

Require:

Pleadings – presented on the forms as adopted for mandatory use by the Judicial Council:

- Proof of Service of Summons POS-010
- Request for Entry of Default -982(a)(6)

Check:

■ Request for Entry of Default – 982(a)(6)

- ☑ submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- ☑ correct case name and number
- ☑ "Request for" completed
- **☑** #1a, b, c, d or e completed
- ✓ #2 if court judgment is being sought
- ✓ #3 marked
- ☑ date and signature of plaintiff or attorney for plaintiff

(Page 2)

- ✓ #4 on box must be marked
- ✓ #5 completed as appropriate
- ✓ #6 completed as appropriate
- ☑ date and signature of declarant
- ☑ #7 completed as appropriate
- ☑ date and signature of declarant
- #8 Declaration of Nonmilitary Status must be completed if defendant is not in the military.
- ☑ date and signature of declarant

Process:

- ile stamp proof of service and any other supporting documents that have not been previously filed
- ile stamp the Request to Enter Default with any attachments and conform the copies

Enter the default – in "**FOR COURT USE ONLY**" box enter:

- (1) Default entered as requested on (date): or
- (2) Default NOT entered as requested (state reason) an example would be if there was an answer on file

Civil Counter Filing Procedures, Civil General Filings

☑ clerk's name☑ sign as deputy

according to your court policy you may be entering data into your case management system

Note:

Completion of the "For Court Use Only" section for the Default NOT entered. Reason: Depends upon each court's policy. For example if there is an answer on file and the court receives the request to enter default it is a good policy to file the request and complete the "For Court Use Only" section indicating the default was not entered as there is a response on file. This allows the court file to properly track documents submitted for filing.

THIS PAGE INTENTIONALLY LEFT BLANK

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

CLERK'S JUDGMENT – UNLAWFUL DETAINER (CCP §1169) (UNCONTESTED PROCEEDING)

Require:			
Pleadings – presented on the forms as adopted for optional use by the Judicial Council:			
	Judgment – Unlawful Detainer – UD-110		
Chaola			
Check: Judgn	nent – Unlawful Detainer – UD-110		
≡ Juugn	✓ submitting party information-name, address, and phone of attorney of		
	record, if applicable (CRC §201)		
	☑ correct court title		
	✓ correct case name and number		
	☑ boxes "By Clerk" "By Default" must be marked		
	JUDGMENT		
	By Clerk By Default After Court Trial		
	By Court On Stipulation Defendant Did Not Appear at Trial		
	✓ #1d completed		
	Page 2		
	description of page – "Judgment is Entered as Follows by:" "□ The Clerk" should		
	be marked		
	✓ #3a completed with plaintiff and defendant names		
	✓ #4 address to be completed		
	☑ #5 completed if appropriate		
Process:			
	Page 2, complete the date, insert name of Court Clerk and sign as clerk		
	☑ file stamp and conform the copies		
	□ according to your court policy you may be entering the data into your case management system		
	management of stem		
Note:			
["]	A Writ of Execution for premises may issue immediately upon entry of		
	judgment.		

COURT JUDGMENT – UNLAWFUL DETAINER (CCP §585)

(UNCONTESTED PROCEEDING)

Require:
Pleadings – presented on the forms as adopted for optional use by the Judicial Council:
■ Declaration for Default Judgment by Court – UD-116
Judgment – Unlawful Detainer – UD-110
Check:
Declaration for Default Judgment by Court – UD-116 – This form completes the
requirements set forth by CCP §585(d), refer back to the "Request for Entry of
Default box 1d.
submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
correct court title
correct case name and number
#1a and b completed
#2 complete with address of property
Page 2
#6 through 14 as appropriate
Page 3
#15 completed as appropriate
date and signature of declarant
✓ #16 through 23 as appropriate – if marked look for attachment
Process:
⊠ file stamp and conform the copies
according to your court policy you may be entering the data into your case management system
Check:
Judgment – Unlawful Detainer – UD-110
submitting party information-name, address, and phone of attorney of
record, if applicable (CRC §201)
☑ correct court title
✓ correct case name and number
☑ boxes "By Court" "By Default" must be marked
JUDGMENT
By Clerk By Default After Court Trial
By Court On Stipulation Defendant Did Not Appear at Trial
Page 2
description of page — "Judgment is Entered as Follows by:" "☐ The Court" should

be marked

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings ☑ #3a completed with plaintiff and defendant names ☑ #4 address to be completed ☑ #5 completed if appropriate ☑ #6 completed as appropriate **Process:**

- ⊠ submit to judge for signature on page 2
- ĭ file stamp and conform the copies
- ☒ according to your court policy you may be entering the data into your case management system

Note:

A Writ of Execution for premises may issue immediately upon entry of judgment.

CONTESTED PROCEEDINGS CCP §1170.5

If a defendant appears by filing an answer, trial of the proceeding shall be held not later than the 20^{th} day following the date that the request to set the time of trial is made.

Require:	
Pleadings	– presented on the forms as approved by your court
	At-Issue Memorandum – this is a request the trial date be set.
Check:	
At -Is	ssue Memorandum
	☑ submitting party information-name, address, and phone of attorney of
	record, if applicable (CRC §201)
	☑ correct court title
	✓ correct case name and number
	☑ if jury is requested
	estimated length of proceeding
Process:	
	☑ file stamp and conform the copies
	☒ according to your court policy you may be entering the data into your case
	management system
	ĭ set the time and date of trial
	⊠ send notice to the parties
Note:	
	The court may extend the period for trial upon the agreement of all of the
	parties. No other extension of the time for trial of an action under this chapter
	may be granted unless the court, upon its own motion or on motion of any
r****	party, holds a hearing and renders a decision thereon.
	Whenever an issue of fact is presented by the pleadings, it must be tried by a
	jury, unless such jury be waived as in other cases.

COURT JUDGMENT – UNLAWFUL DETAINER (CCP §1174)

(CONTESTED PROCEEDING)

Require: Pleadings -	- presented on the forms as adopted for optional use by the Judicial Council: Judgment – Unlawful Detainer – UD-110
Check: Judgm	nent – Unlawful Detainer – UD-110
	✓ submitting party information-name, address, and phone of attorney of record, if applicable (CRC §201)
	☑ correct court title
	☑ correct case name and number
	☑ boxes "By Court" and whatever else applies should be marked
	JUDGMENT By Clerk By Default Defendant Did Not Appear at Trial
	✓ #2 completed as appropriate Page 2
	☑ top of page – "Judgment is Entered as Follows by:" "☐ The Court" should be marked
	■ #3a completed with plaintiff and defendant names
	#4 address to be completed
	✓ #5 completed if appropriate
	#6 or 7 completed as appropriate
	✓ #8 if marked must be attached
	<u>Judgment – Unlawful Detainer Attachment Form UD-110S</u>
	☑ 7 through 8 as appropriate
Process:	
	☑ file stamp and conform the copies
	according to your court policy you may be entering the data into your case management system
Note:	
	Pursuant to CCP §664.5 promptly upon entry of judgment in a contested action or special proceeding in which a prevailing party is not represented by counsel, the clerk of the court shall mail notice of entry of judgment to all parties who have appeared in the action and shall execute a certificate of such mailing and place it in the court's file in the cause.

Civil Counter Filing Procedures, Civil General Filings

NOTICE OF ENTRY OF JUDGMENT (CCP §664.5)

Require:

Pleadings -

Notice of Entry of Judgment

Prepare:

Notice of Entry of Judgment

Process:

- ĭ file stamp and conform the copie
- **☒** serve on parties in action
- ☒ according to your court policy you may be entering the data into your case management system

Note:

Pursuant to CCP §664.5 promptly upon entry of judgment in a contested action or special proceeding in which a prevailing party is not represented by counsel, the clerk of the court shall mail notice of entry of judgment to all parties who have appeared in the action and shall execute a certificate of such mailing and place it in the court's file in the cause.

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

SAMPLE NOTICE OF ENTRY OF JUDGMENT

COUNTY OF SUPERIOR COURT ADDRESS CITY, STATE ZIP PHONE NUMBER

SUPERIOR COURT OF CALIFORNIA COUNTY OF?

PLAINTIFF NAME,)	Case No.
Plaintiff,)	
v.)	NOTICE OF ENTRY OF JUDGMENT
DEFENDANT NAME,))	VEDGIVIEAVI
Defendants.		
TO PARTIES IN PRO PER:		
NOTICE IS HEREBY GIVEN	I that on Ma	arch 3, 2004, judgment was entered in favor of Plaintiff,
PLAINTIFF NAME and against the De	fendant, DE	FENDANT NAME, for restitution of premises located at
(address) and costs in the amount of \$3,0	00.00.	
March 4, 2004		NAME, CLERK OF THE COURT
		Ву:
		[Deputy Clerk]
[Attach a proof of service]		

E-31

THIS PAGE INTENTIONALLY LEFT BLANK

PROTECTIVE ORDERS

CIVIL HARASSMENT (CCP §527.6 & 527.9)

Under California law (Code of Civil Procedure section 527.6), courts can make orders to protect people from being harassed by others. These orders will be enforced by law enforcement agencies.

Most people who are victims of harassment can ask the court for these orders. The harassed person (the plaintiff) may seek protection under this law if the defendant:

- · has committed acts of violence against the victim; or
- has threatened to commit acts of violence against the victim; or
- has engaged in a course of conduct against the victim and the victim has suffered substantial emotional distress as a result; and
- the conduct of the defendant seriously alarmed, annoyed, or harassed the victim and served no legitimate purpose.

The court may require the losing party—whether the plaintiff or defendant— to pay the winning party's court costs and attorney fees.

To enable the customer to determine if their action is Civil Harassment or Domestic Violence under the Family Code they need to see what qualifies for Domestic Violence. If the customer answers yes to any of these questions they would qualify for Domestic Violence, if not, Civil Harassment would be appropriate.

To qualify for Domestic Violence Prevention:

- We are now married.
- We used to be married.
- ♦ We live together.
- We used to live together.
- We are relatives, in-laws, or related by adoption.
- We are dating or used to date.
- We are engaged to be married or were engaged to be married.
- We are the parents together of a child or children under 18:

TEMPORARY RESTRAINING ORDER AND INJUNCTION PROHIBITING HARASSMENT (CCP §527.6 & 527.9)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

- Request for Orders to Stop Harassment CH-100
- Notice of Hearing and Temporary Restraining Order CH-120

Fee \$ filing fee as required under GC §72055 unless there is a fee waiver, or plaintiff qualifies for waiver of fees due to sexual assault or stalking

Check:

Request for Orders to Stop Harassment – CH-100

- #1 filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ✓ #1 names of all plaintiffs
- #2 defendant's name and description
- #3 names of other persons who need protection
- ✓ #4 completed as appropriate, marking all that apply
- ✓ #5 completed as appropriate, marking all that apply

Page 2

- ✓ #6 completed as appropriate, marking all that apply
- #8 description of conduct, attaching additional pages as necessary this is important information to assist the judge in making a determination
- **✓** #9 if applicable
- #10 completed as appropriate

Page 3

- ✓ #11 completed as appropriate
- ✓ #12 completed as appropriate
- #14 through 16 as appropriate

Page 4

- **☑** #17 if appropriate
- **☑** #18 if appropriate
- **☑** #19 if appropriate
- **☑** #20 look for attachments
- \square date and signature of all plaintiffs or attorney for plaintiffs

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ĭ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt. (This will depend upon your court policy if the plaintiff is asking the fee to be waived, the filing fee can be put into trust so it can be returned if the court grants the waiver.)

Civil Counter Filing Procedures, Civil General Filings

set the ex-parte hearing pursuant to court policy, or if petition warrants issuance without notice route to judge for consideration of the temporary orders

Note:

A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

For the purposes of this section, "harassment" is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. CCP §527.6(a)(b)

Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. A temporary restraining order may be issued with or without notice upon an affidavit that, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. CCP §527.6(c)

Check:

- **Notice** of Hearing and Temporary Restraining Order (CLETS)(Civil Harassment) − CH-120
 - #1 filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
 - ☑ correct court title
 - parties correct names
 - ✓ mark box if temporary orders are granted
 - ✓ case number
 - #2 completed with defendant's name and description
 - ✓ assign a hearing date

Notice of Hearing

- **☑** #3 hearing date and time
- ✓ #4 court orders

Page 2

Temporary Restraining Order

■ #5 through 10 as ordered

Page 3

✓ #11 through 15 as ordered

Civil Counter Filing Procedures, Civil General Filings

Process:

- Judge will sign either at the ex-parte hearing or when submitted without notice
- ile stamp and conform all copies
- if temporary orders are granted make 5 copies and certify them by placing the court seal where indicated, fill in date, Court Executive Office and sign as clerk
- according to your court policy you may be entering the data into your case management system

Note:

Within 15 days, or, if good cause appears to the court, 22 days from the date the temporary restraining order is issued, a hearing shall be held on the petition for the injunction. The defendant may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section. CCP §527.6(d)

Civil Counter Filing Procedures, Civil General Filings

PROOF OF PERSONAL SERVICE (CIVIL HARASSMENT) (CCP §527.6)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Proof of Personal Service (Civil Harassment) – CH-130

Check:

	Proof	of P	erconal	Service	(Civil	Harassment) _	CH.	130
\equiv	1 1 0 0 1	OLI	ei sullai	Sei vice		Hai assineni	<i>)</i> —		130

- #1 filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ☑ case number
- **✓** #2 name of defendant
- **✓** #3 notice to server
- ✓ #4 which documents were served
- ✓ #5 completed with name of person served
- #6 completed with name, telephone and address of serving person
- ☑ date and signature of declarant

Process:

- ĭ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

Note:

Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the plaintiff or on its own motion, shorten the time for service on the defendant.

THIS PAGE INTENTIONALLY LEFT BLANK

Civil Counter Filing Procedures, Civil General Filings

ANSWER TO REQUEST FOR ORDERS TO STOP HARASSMENT (CCP §527.6 & 527.9)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Answer to Request for Orders to Stop Harassment – CH-110

Fee \$ filing fee as required under GC \$72055 unless there is a fee waiver, or if plaintiff qualified for the fee to be waived due to the nature of the threats.

Check:

Answer to Request for Orders to Stop Harassment – CH-100

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ☑ case number
- ✓ #1 through 15 as appropriate
- ☑ date and signature of all plaintiffs or attorney for plaintiffs
- proof of service by mail on plaintiff or plaintiff's attorney (CH-131)

Process:

- ☑ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt. (This will depend upon your court policy if the plaintiff's fee was waived based on threats of violence there is no fee for respondent to file is asking the fee to be waived.) CCP §527.6(p)
- according to your court policy you may be entering the case into your case management system

PROOF OF SERVICE BY MAIL (CIVIL HARASSMENT) (CCP §527.6)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Proof of Service by Mail (Civil Harassment) – CH-131

Check:

Proof of Service by Mail (Civil Harassment) – CH-131

- #1 filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ☑ case number
- **☑** #2 name of server
- #3 notice to server completed with name and address of person served
- ✓ #4 which documents were served
- ✓ #5 date and place of mailing
- #6 completed with name, telephone and address of serving person
- ☑ date and signature of declarant

Process:

- ile stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

RESTRAINING ORDER AFTER HEARING TO STOP HARASSMENT CCP §527.6 & 527.9 & PC §273.6(a)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council: (If any other format is used the order is not enforceable as a CLETS order.)

Restraining Order After Hearing to Stop Harassment – CH-140

Check:

Restraining Order After Hearing to Stop Harassment –CH-140

- #1 filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ☑ case number
- ☑ Dept.
- #2 name of defendant with defendant's description
- **☑** #3 date of hearing
- **✓** #4 court order
- #5 date order expires, unless granted for 3 years then no date necessary

Page 2

- #6 through 10 completed as appropriate, marking all that apply
- #11 completed with other protected persons listed

Page 3

#12 and 13 completed as appropriate

Process:

- ĭ route to judge for signature
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the case into your case management system
- make 5 copies and certify them by placing the court seal where indicated, fill in date, Court Executive Office and sign as clerk. Make one extra for you to route to local law enforcement for entry into the CLETS system

Note:

A person subject to a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section. CCP §527.9(a)

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

THIS PAGE INTENTIONALLY LEFT BLANK

PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (CCP §527.8 & 527.9)

This statute allows **employers** to obtain court orders prohibiting unlawful violence or credible threats of violence against their employees. The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. To get an order under this law, the plaintiff **must** be an employer. An employer is defined as the following:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(d).)

The process for the Petition to Prohibit Workplace Violence works in the essentially the same manner as the Petition to Prohibit Civil Harassment.

Require:

Pleadings – presented on the forms as Adopted for Mandatory or Optional use by the Judicial Council:

- Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee WV-100
- Order to Show Cause and Temporary Restraining Order WV-120
- Fee \$ filing fee as required under GC \$72055 unless there is a fee waiver, or plaintiff qualifies due to the nature of the abuse

Check:

Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee – WV-100

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- □ parties correct names including name of employee
- box must be marked if temporary restraining orders are being sought

PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE(Workplace Violence) AND APPLICATION FOR TEMPORARY RESTRAINING ORDER

- \blacksquare #1 name and type of business entity
- #2 name of employee and description
- #3 defendant's name and addresses
- ☑ #4 completed as appropriate, marking all that apply
- #5 completed with all that apply

Civil Counter Filing Procedures, Civil General Filings

Page 2

- #6 completed setting forth for the judge the harm that has occured, look for an attachment page if more room is needed
- #7 the harm that will occur

Page 3

 \square #10 through 14 as appropriate

Page 4

- **✓** #15 any costs requested
- #17 if requesting filing fee be waived
- **☑** #19 look for attachments
- date and signature of all plaintiffs or attorney for plaintiffs

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- receipt the filing fee and provide the customer with a copy of the receipt. (This will depend upon your court policy if the plaintiff is asking the fee to be waived, the filing fee can be put into trust so it can be returned if the court grants the waiver.)
- set the ex-parte hearing pursuant to court policy, or if petition warrants issuance without notice route to judge for consideration of the temporary orders

Note:

Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the plaintiff also files an affidavit that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the defendant, and that great or irreparable harm would result to an employee. In the discretion of the court, and on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members who reside with the employee. CCP §527.8(e)

Check:

☐ Order to Show Cause and Temporary Restraining Order (CLETS)(Workplace Violence) – WV-120

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ✓ mark box if temporary orders are granted
- ☑ case number
- #1 completed with defendant's name

	k Training Institute, 2005	
Civil Cou	er Filing Procedures, Civil General Filings	
[#2 assign a hearing date	
[#3 completed by the judge setting forth the timelines to file papers	
<u>]</u>	ge 2 Temporary Restraining Order	
[#5 defendant's name and description	
[#5 b & c protected person's information	
[#6, 7 & 8 restraining orders marked pursuant to judge's order	
<u>]</u>	<u>nge 3</u>	
]	#9 through 13 as ordered	
Process		
	Judge will sign either at the ex-parte hearing or when submitted witho	ut
	notice. There are two places for the judge to sign. If the court denie	es
	temporary orders only the signature line on page 1 will be signed. If the	
	court grants the temporary orders the judge must sign on the 1 st and 3 rd pag	e.
[file stamp and conform all copies	
[if temporary orders are granted make 5 copies and certify them by placing	ng

Note:

X

to law enforcement

management system

Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. CCP §527.8(f)

the court seal where indicated, fill in date, Court Executive Office and sign as clerk. Dependent upon your court policy you may be forwarding a copy

according to your court policy you may be entering the data into your case

PROOF OF PERSONAL SERVICE (WORKPLACE VIOLENCE) (CCP §527.8)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Proof of Personal Service (Workplace Violence) – WV-130

Check:

Proof of Personal Service (Workplace Violence) – WV-130

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ☑ case number
- #2 completed with documents served
- #3 completed with the name of person served
- ✓ #4 completed with date, time and address of service
- ✓ #5 completed with name, telephone and address of serving person
- #6 telephone number of serving person
- date and signature of declarant

- ☐ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

RESPONSE TO PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (CCP §527.8)

Require:

Pleadings – presented on the forms as Adopted for Mandatory use by the Judicial Council:

Response To Petition Of Employer For Injunction Prohibiting Violence Or Threats Of Violence Against Employee – WV-110

Fee \$ filing fee as required under GC \$72055 unless there is a fee waiver, or if plaintiff qualified for the fee to be waived due to the nature of the threats.

Check:

Response To Petition Of Employer For Injunction Prohibiting Violence Or Threats Of Violence Against Employee – WV-110

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ☑ case number
- ✓ #1 through 9 as appropriate
- ☑ date and signature of all defendant or attorney for defendant
- ☑ date and signature of defendant under penalty of perjury
- proof of service in person or by mail on plaintiff or plaintiff's attorney (WV-131 or WV-132)

- ☑ file stamp and conform all copies
- receipt the filing fee and provide the customer with a copy of the receipt. (This will depend upon your court policy if the plaintiff's fee was waived based on threats of violence there is no fee for respondent to file is asking the fee to be waived.) CCP §527.6(p)
- according to your court policy you may be entering the data into your case management system

PROOF OF SERVICE OF COMPLETED RESPONSE (Workplace Violence) (CCP §527.8)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

- Proof of Service by Mail of Completed Response (Workplace Violence) WV-131
- Proof of Service by Personal Delivery of Completed Response (Worplace Violence) WV-132

Check:

Proof of Service by Mail of Completed Response (Workplace Violence) – WV-131

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ☑ case number
- ✓ #2a & b completed as appropriate
- #3 completed with name, telephone and address of person served
- ☑ date and signature of declarant

Check:

Proof of Service by Personal Delivery of Completed Response (Worplace Violence – WV-132)

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ☑ case number
- ✓ #2a & b completed as appropriate
- ☑ #3 completed with name, telephone and address of person served
- ✓ #4 address of serving party
- ☑ date and signature of declarant

- ☐ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

Civil Counter Filing Procedures, Civil General Filings

ORDER AFTER HEARING ON PETITION OF EMPLOYER FOR INUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (CLETS) (CCP §527.8 & 527.9, PC §273.6(A))

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council: (If any other format is used the order is not enforceable as a CLETS order.)

Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence)(CLETS) – WV-140

Check:

Order	After Hearing of	n Petition of	Employer	for Injunction	n Prohibiting	Violence or
Threats of	f Violence Agair	ist Employee	(Workplac	e Violence)(C	LETS) – WV	′-140

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names including employee's name
- ✓ case number
- Date order expires, unless granted for 3 years then no date necessary
- ✓ #2 date of hearing
- **☑** #3 Judicial Officer
- ✓ #4 completed as appropriate, marking all that were present
- ✓ #5a completed with the defendant's name and description
- #5b & c completed with the protected person & family members information

Page 2

- ☑ #6 & 7 completed as appropriate, marking all that apply
- #8 MUST be completed this is a mandatory order if protective orders are granted CCP §527.9 & PC 273.6(a)
- **⋬** #9 any other orders

Page 3

✓ #10 completed as appropriate

Process:

- ĭ route to judge for signature
- according to your court policy you may be entering the data into your case management system
- make 5 copies and certify them by placing the court seal where indicated, fill in date, Court Executive Office and sign as clerk. Make one extra for you to route to local law enforcement for entry into the CLETS system

Note:

A person subject to a temporary restraining order or injunction issued pursuant to Section 527.8 or 527.9 of the Code of Civil Procedure, or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section. CCP §527.9(a)

THIS PAGE INTENTIONALLY LEFT BLANK

PROTECTIVE ORDERS FOR ELDER OR DEPENDENT ADULT (W&I §15657.03, CCP §527.9)

An elder or dependent adult who has suffered abuse as defined in Section 15610.07 of the California Welfare and Institutions Code may be protected by the orders. Under Section 15610.07, "abuse of an elder or a dependent adult" means either of the following:

- a. Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
- b. The deprivation of a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
- The process for the Petition to Prohibit Elder Abuse works in the essentially the same manner as the Petition to Prohibit Civil Harassment.

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

- Petition for Protective Orders (Elder or Dependent Adult Abuse)(CLETS) EA-100
- Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse)(CLETS) EA-120

Fee \$ no fees for filing the petition

Check:

Petition for Protective Orders (Elder or Dependent Adult Abuse)(CLETS) – EA-100

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- \square #1 name of petitioner and capacity
- ✓ #2 name of person to be protected and status
- #3 respondent's name and description
- #4 one box must be marked

Page 2

- #5 marked as applicable
- #6 marked as applicable
- \square #7, 8, 9, & 10 completed with orders being requested

Page 3

#11 through 13 as appropriate

Page 4

- ✓ #14 through 17 as appropriate
- \square date and signature of plaintiff or attorney for plaintiffs
- signature of petitioner under penalty of perjury

Civil Counter Filing Procedures, Civil General Filings

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- ☑ file stamp and conform all copies
- set the ex-parte hearing pursuant to court policy, or if petition warrants issuance without notice route to judge for consideration of the temporary orders

Note:

- Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in subdivision (b). However, the court may issue an ex-parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:
 - (A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.
 - (B) That the party to be excluded has assaulted or threatens to assault the petitioner.
 - (C) That physical or emotional harm would otherwise result to the petitioner. W&I 15657(D)(1)

Check:

☐ Order to Show Cause and Temporary Restraining Order (Elder or Dependent Abuse)(CLETS)– EA-120

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ✓ case number
- **✓** #1 completed with respondent's name

Page 2

- #3 name and description of restrained person
- #4 name of protected person
- ☑ #5 & 6 restraining orders as granted by judge
- ☑ #8 must be marked to waive the service fee
- **⋬** #9 any other orders
- ☑ #10 service on defendant as ordered by the judge

Civil Counter Filing Procedures, Civil General Filings

Process:

- Judge will sign either at the ex-parte hearing or when submitted without notice. There are two places for the judge to sign. If the court denies temporary orders only the signature line on page 1 will be signed. If the court grants the temporary orders the judge must sign on the 1st and 3rd page.
- ĭ file stamp and conform all copies
- if temporary orders are granted make 5 copies and certify them by placing the court seal where indicated on page 4, fill in date, Court Executive Office and sign as clerk
- according to your court policy you may be entering the data into your case management system

Note:

In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted, unless the order is otherwise modified or terminated by the court. W&I §15657(2)

PROOF OF SERVICE (ELDER OR DEPENDENT ADULT ABUSE) (CLETS) (W&I 15657.03)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Proof of Service (Elder or Dependent Adult Abuse) (CLETS) – EA-140

Check:

Check	: <u>:</u>	
Pro	of of	Service (Elder or Dependent Adult Abuse0 (CLETS) – EA-140
		filing party information – name, address, phone, and bar number of attorney of record, if applicable (CRC §201) correct court title parties correct names case number
	$\overline{\square}$	#1 completed with documents served
		#2 completed with the name of person served #3 completed with date, time and address of service #5 completed with name, telephone and address of serving person #6 completed if applicable date and signature of declarant
Proces	<u>ss:</u> ×	file stamp and conform all copies according to your court policy you may be entering the data into your case management system
Note:		Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any affidavits in support of the petition. Service shall be made at least two days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

W&I §15657.03(2)(g)

RESPONSE TO PETITION FOR PROTECTIVE ORDERS (ELDER OR DEPENDENT ADULT ABUSE) (CLETS) (W&I §15657.03 & CCP §527.9)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Response To Petition for Protective Orders (Elder or Dependent Adult Abuse) (CLETS) – EA-110

Check:

Response To Petition for Protective Orders (Elder or Dependent Adult Abuse) (CLETS) – EA-110

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names
- ☑ hearing date, time & dept
- ✓ case number
- #1 through 7 as appropriate
- date and signature of all respondent or attorney for respondent
- date and signature of respondent under penalty of perjury
- proof of service by mail on petitioner or petitioner's attorney (EA-141)

- ĭ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

PROOF OF SERVICE (ELDER OR DEPENDENT ADULT ABUSE)(CLETS) (W&I §15657.03)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Proof of Service by Mail of Completed Response (Workplace Violence) – EA-141

Check:

Proof of Service by Mail of Completed Response (Workplace Violence) – EA-141

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ✓ correct court title
- parties correct names
- ☑ case number
- ✓ #1 completed as appropriate
- #2a, b, c & d completed as appropriate
- ☑ #3 completed with name and address of person served
- date and signature of declarant

- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system

RESTRAINING ORDER AFTER HEARING (ELDER OR DEPENDENT ADULT ABUSE) (CLETS) (W&I 15657.03 & CCP §527.9)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council: (If any other format is used the order is not enforceable as a CLETS order.)

Restraining Order After Hearing (Elder or Dependent Adult Abuse) (CLETS) – EA-130

Check:

Restraining Order After Hearing (Elder or Dependent Adult Abuse) (CLETS) – EA-130

- filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
- ☑ correct court title
- parties correct names including employee's name
- ☑ case number
- date order expires, unless granted for 3 years then no date necessary
- #1 name of judicial officer, date time & department
- ✓ #2 a, b or c as appropriate
- #3 name of restrained person and description
- ✓ #4 name of protected person
- ✓ #5 completed as appropriate

Page 2

- **☑** #6 completed if ordered

Page 3

#12 completed as appropriate listing relevant law enforcement agencies

Process:

- ĭ route to judge for signature
- ☑ file stamp and conform all copies
- according to your court policy you may be entering the data into your case management system
- make 5 copies and certify them by placing the court seal where indicated on page 3, fill in date, Court Executive Office and sign as clerk. Make one extra for you to route to local law enforcement for entry into the CLETS system

Note:

A person subject to a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section. CCP §527.9(a)

PROOF OF SALE OF FIREARMS/TURNING IN OF FIREARMS (CIVIL HARASSMENT/ELDER ABUSE/WORKPLACE VIOLENCE) (CCP §527.9)

Require:

Pleadings – presented on the forms as Approved for Optional use by the Judicial Council:

Proof of Sale of Firearms/Turned in of Firearms – CH-145/EA-145/WV-145

<u>:</u>	
of of	Sale of Firearms/Turning in of Firearms – CH-145/EA-145/WV-145
\checkmark	filing party information – name, address, phone, and bar number of attorney
	of record, if applicable (CRC §201)
\checkmark	correct court title
\checkmark	parties correct names
\checkmark	case number
\checkmark	judge & department
Ī	appropriate box marked
	PROOF OF: SALE OF FIREARMS TURNING IN OF FIREARMS
\checkmark	#1 & 2a completed as appropriate
Page	<u> </u>
$\overline{\checkmark}$	#2b completed as appropriate
\checkmark	#3 & 4 completed as appropriate
	of o

Process:

 $\overline{\mathbf{Q}}$

 $\overline{\mathbf{V}}$

file stamp and conform all copies

date and signature of defendant or respondent

according to your court policy you may be entering the data into your case management system

proof of service by mail on plaintiff or plaintiff's attorney (EA-141)

APPLICATION AND ORDER FOR REISSUANCE OF ORDER TO SHOW CAUSE (HARASSMENT & ELDER OR DEPENDENT ADULT ABUSE [CCP §527(d)(5)]

T.	•	
K DU	1111PA	•
IXC U	uire	,

Pleadings – presented on the form as Approved for Optional use by the Judicial Council:

Application and Order for Reissuance of Order to Show Cause – CH-125

Pleadings – presented on the form Adopted for Mandatory use by the Judicial Council:

Application and Order for Reissuance of Order to Show Cause (Elder of Dependent Adult abuse)(CLETS) – EA-125

Check:

- **Application and Order for Reissuance of Order to Show Cause CH-125**
- **Application and Order for Reissuance of Order to Show Cause (Elder of Dependent Adult abuse)**(CLETS) EA-125
 - filing party information name, address, phone, and bar number of attorney of record, if applicable (CRC §201)
 - ☑ correct court title
 - ✓ parties correct names
 - ☑ case number
 - #1 a, b or c as appropriate
 - **☑** #2 a box must be checked
 - date and signature of declaring party

Process:

- ĭ route to judge for signature
- insert new hearing date
- ☑ complete b pursuant to court determination

Note:

- ELDER OR DEPENDENT ADULT ABUSE: The court may, upon the filing of an affidavit by the applicant that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall be made returnable on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of reissuance. The reissued order shall state on its face the date of expiration of the order. W&I §15657(h)
- HARASSMENT: Upon the filing of an affidavit by the applicant that the opposing party could not be served within the time required, the court may reissue any temporary restraining order previously issued. The reissued order shall be made returnable as provided by paragraph (1), with the time for hearing measured from the date of reissuance. No fee shall be charged for reissuing the order. CCP §527(d)(5)

SMALL CLAIMS

The purpose of Small Claims Court is to hear disputes involving small amounts of money, without long delays or formal rules of evidence. This is a "Peoples Court" where attorneys are not usually permitted to represent individuals. The maximum amount you can sue for in Small Claims Court in California is \$5,000.00.

There are several advantages for using the Small Claims Court:

- You can prepare and present your own case before the court.
- It is relatively easy to file, prepare, and present your case.
- The timeframes for Small Claims Court are much quicker than civil proceedings.
- All Counties in the State of California are required by law to provide the services of a Small Claims Advisor.
- Attorneys may not represent small claims litigants in court. They may, however, consult an attorney prior to or after court appearance.

SMALL CLAIMS FACTS:

Claims: Except for claims filed by a public entity, no person may file more than 2 Small Claims actions in which the amount demanded exceeds \$2,500.00 anywhere in the State in a calendar year. CCP §116.231

Any plaintiff that has filed more than 12 claims in the previous 12 months will pay a higher filing fee. CCP §116.230

- <u>Clerk:</u> The clerk shall provide forms and pamphlets from the Judicial Council. The clerk shall provide materials from the Department of Consumer Affairs when available. The clerk shall inform litigants of the small claims advisory service. The clerk may answer questions relative to filing and service of the claim, designation of the parties, scheduling of hearings, and similar matters. CRC 1706.
- Correction of Judgment: There is no statutory provision that prevents a small claims court from correcting a clerical error in a judgment or from setting aside and vacating a judgment on the ground of an incorrect or erroneous legal basis for the decision. CCP 116.725.

At any time after judgment for good cause, on motion by a party and notice by the clerk to all affected parties, the court may amend the name of any party to include both the party's correct legal name and the names actually used by that party. CCP 116.630.

Civil Counter Filing Procedures, Civil General Filings

Under CCP 473(d) the court may correct clerical errors in its judgment or orders as entered to conform to the judgment or order directed. A court has authority to correct clerical errors at any time. When a clerical error in a judgment is corrected, the order of correction is generally made nunc pro tunc to the time of the original entry of judgment

Fictitious Business Name: If the plaintiff operates or does business under a fictitious business name and the claim relates to that business, the claim shall be accompanied by the filing of a declaration stating that the plaintiff has complied with the fictitious business name statement as required. The form is required in every case filed by a plaintiff relating to the business. CCP §116.430

Hearing:

Uncontested: This hearing proceeds if the plaintiff or defendant does not appear. The bench officer will verify the parties were properly served.

Contested: This hearing proceeds when both the plaintiff and defendant appear and the testimony is presented by both sides.

Jurisdiction: The clerk should never refuse to file a claim due to lack of jurisdiction. This is a judicial determination.

In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand (claim over the \$5,000.00 limit), the excess may be waived, but waiver shall not become operative until judgment. CCP §116.220(d)

The small claims court shall have jurisdiction in any action filed by a plaintiff incarcerated in a Department of Corrections facility or a Youth Authority facility, the small claims court shall have jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation. If the plaintiff fails to provide proof of compliance with the requirements at the time of trial, the judicial officer shall, at his or her discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide such proof. CCP §116.220(e)

For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

A defendant may file a claim against the plaintiff if the claim is within the jurisdictional limit of the small claims court. This claim need not relate to the same subject or event as the plaintiff's claim. CCP 116.360(a); CRC 1703. If the defendant's claim against the plaintiff exceeds the \$5000 limit and the claim relates to the transaction of event that is the subject of the plaintiff's claim, the defendant may commence an action against the plaintiff in a court of competent jurisdiction and request the small claims court to transfer the small claims action to that court. CCP 116.390(a).

The Clerks' Office may not assist parties with legal questions regarding jurisdiction but the clerk may provide general information regarding the filing of a claim. The Clerk's Office should never refuse the filing of a claim due to lack of jurisdiction. The clerk should be familiar with the types of claims, in which the court does and does not have jurisdiction.

Naming of Parties: When naming a party in Small Claims the plaintiff must sue using their exact legal name and must reflect the defendants' exact legal name.

There are certain requirements that must be met in order for a party to file a Small Claims action. The party filing the claim:

- Must be the original owner of the claim
- Must be at least 18 years of age
- Must be mentally competent
- When naming a party in Small Claims the plaintiff must sue using their exact legal name and must reflect the defendants' exact legal name.

A corporation may appear only through a regular employee or duly appointed or elected officer or director, the purpose of whose appointment or election was not solely to provide representation in small claims court. CCP 116.540(b). The person appearing on behalf of the corporation must submit a declaration stating (1) that he or she is authorized to act for the corporation, (2) the basis for that authorization, and (3) that he or she was not employed solely to represent the corporation in small claims court. CCP 116.540(i).

An entity that is not a corporation or a natural person may appear only through a regular employee, duly elected officer or director, or a partner (in the case of a partnership) who was engaged for purposes other than representing the entity in small claims court. CCP 116.540(c).

A sole proprietorship may appear by a representative if the claim can be proved or challenged by evidence of an account that constitutes a business record under Evidence Code 1271 and there is no other issue of fact in the case. CCP 116.540(d)(l). The representative of the entity must submit a declaration stating (1) that he or she is authorized to appear for the entity, (2) the basis for that

Civil Counter Filing Procedures, Civil General Filings

authorization, and (3) that he or she was not employed solely to represent the corporation in small claims court. CCP 116.540(i).

Members of the armed forces, prisoners, non-resident owners of real property, and owners of rental real property, are entitled to waive personal appearance and submit written declarations as evidence supporting the party's claim, or to allow another person (other than an attorney) to appear on their behalf. The declaration must state that the person is serving without compensation and has appeared on behalf of others no more than four times during the calendar year. CCP 116.540 (e)-(i).

A property agent is permitted to represent an owner of rental real property if the agent is under contract to the owner principally to manage the rental property and not to represent the owner in small claims court and the claim relates to the rental property. CCP 116.540(h).

A married person who sues or is sued with his or her spouse may participate on behalf of the spouse if (1) the claim is a joint claim, (2) the represented spouse has consented, and (3) the court determines that the interest of justice would be served. CCP 116.540(j).

A minor or incompetent can appear only by a guardian ad litem. CCP 116.410(b).

Small Claims Assistance: In each county, individual assistance is made available to advise small claims litigants and potential litigants without charge as provided in Section 116.940 and by rules adopted by the Judicial Council. CCP §116.260

It is the clerk's responsibility to inform parties orally or in writing that an advisor is available for individual assistance at no additional charge. This information should inform the parties of telephone numbers, addresses, and hours available for assistance. Litigants should be encouraged to contact the Small Claims Advisor for suggestions on how to settle their disputes without filing a Small Claims action or how to effectively present their case to the court and for all post judgment proceedings.

The California Department of Consumer Affairs offers many services to assist Small Claims Litigants. Currently their consumer action hotline may be reached at **1-414-777-9635**, or at www.consumer-action.org. The direct number to the California Department of Consumer Affairs is **1-800-952-5210**, or at www.dca.ca.gov/r_r/index.html.

Publications Small Claims Court: CCP 116.930- The consumer Affair Law Sourcebook is available to assist the Small Claims Court Judicial Officer. This manual is required in each Small Claims courtroom. This resource is also valuable to the clerk and Small Claims litigants. Copies are available directly through the Department of Consumer Affairs.

Civil Counter Filing Procedures, Civil General Filings

Statute of Limitations: The laws that govern the statute of limitations are complex, varied and extensive. It is not the responsibility of the clerk to verify if the statute is being met. As long as the plaintiff has made a demand for money and been refused, they have a valid small claims. CCP §335

Civil Counter Filing Procedures, Civil General Filings

Types of Claims:

- 1)Recovery: The Small Claims Court has jurisdiction to hear cases for the recovery of money that does not exceed \$5,000.00. CCP §116.220(a)(1)
- **2)Enforce Payment:** of delinquent unsecured personal property taxes in an amount not to exceed \$5,000.00 if the defendant does not contest the legality of the tax. CCP §116.220(a)(2)
- **3)Writ of Possession:** where property in question is in the possession of an innkeeper and does not exceed \$5,000.00. CC §1861.5 & 1861.10
- **4)Attorney/Client:** to conform, correct or vacate a fee arbitration award not to exceed \$5,000.00 between an attorney and their client. CCP §116.220(a)(4)

Demand of Prayer over \$2,500.00. No person shall be allowed to file more than two claims where the amount exceeds \$2,500.00 anywhere in the State within the calendar year. The limitation does not apply if the plaintiff is a public entity. CCP \$116.231 & CCP 116.231(d)

- **5)Landlord or Landlord's Trustee:** Recovery of a security deposit and damages. CCP §116.220
- **6)Nuisance:** Claims against a landlord that he/she abate a nuisance or repair substandard conditions.
- **7)Defendant Guarantor**: A defendant guarantor who is required to respond based upon the default actions, omissions of another, only if the demand does not exceed (1) two thousand five hundred dollars (\$2,500), or (2) on and after January 1, 2000, four thousand dollars (\$4,000), if the defendant guarantor charges a fee for its guarantor or surety services or the defendant guarantor is the Registrar of the Contractors' State License Board.
- 8)Plaintiff is Incarcerated in a Youth Authority or Corrections Facility: Actions against the Department of Corrections or Youth Authority when the plaintiff is incarcerated in a Youth Authority or Corrections facility only if the plaintiff alleges in the complaint that he or she has exhausted administrative remedies (including compliance with Govt C §§905.2 and 905.4) or if the final administrative adjudication is attached to the complaint. CCP §116.220(e), (g)
- **9)Limited Civil Actions:** See CCP §86(a) if the case is within the small claims jurisdiction. CCP §87(a). In that situation, if there is a conflict between small claims statutes and rules and those governing limited civil cases, small claims statutes and rules prevail. CCP §87(a). On reviewing cases for jurisdictional problems, see §§3.5-3.6.

Court Clerk Training Institute, 2005 Civil Counter Filing Procedures, Civil General Filings

The court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

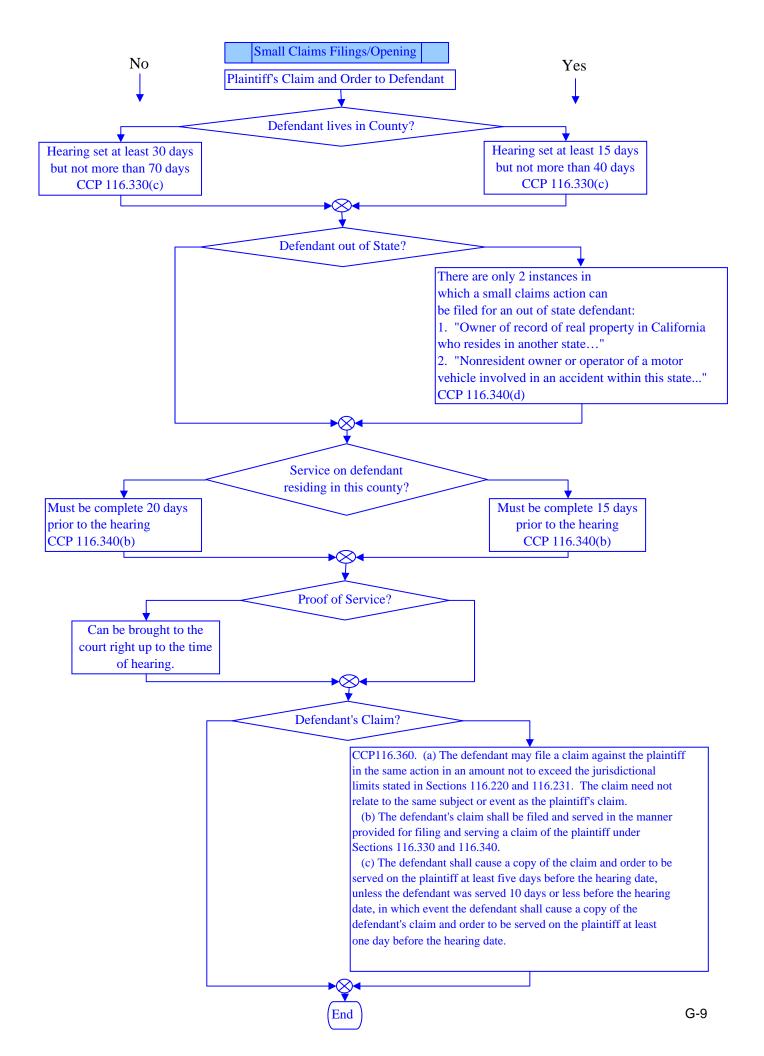
Civil Counter Filing Procedures, Civil General Filings

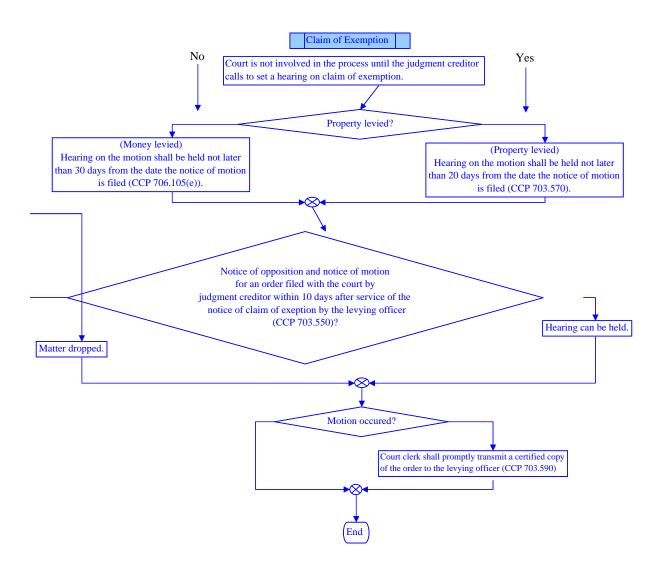
The Small Claims Court has **no** jurisdiction in the following matters:

- To enforce child support orders. (Family Law jurisdiction)
- Enforcing conditions from a marital dissolution proceeding (e.g., a condition in a dissolution agreement to pay the loan of a spouse). 143 CA3d 702.
- Workers' Compensation claims. (Only workers compensation appeals board)
- To hear claims for equitable relief in the absence of a claim for money damages. CCP 116.220(a)-(b).
- To hear claims against defendants who have not been served within the State (CCP 116.340(4)(d)(e)(f)
- To hear a third claim by one plaintiff within a 12 month period for more than \$2,500.00, with the exception of a public entity.
- To issue a prejudgment attachment (CCP 116.140(b))
- To hear actions without proof of administrative remedies against public entities and the Department of Corrections.
- Hearing a claim filed or maintained by an assignee of the claim. CCP 116.420(a)
- Venue: Rule that determines the proper court and location to file a claim, may be by Local Rule if there is more than one court location in the county handling small claims cases or may be one of the following:
 - 1. Where the defendant lives
 - 2. Where the damage or accident occurred
 - 3. Where the contract was entered into or to be carried out
 - 4. Or, if the defendant is a corporation, where the contract was broken
 - 5. On a retail installment account, where the buyer lives or signed the contract

A defendant may challenge venue by writing to the court. CCP 116.370(b), (c). If the court denies the challenge and the defendant is not present, the hearing shall be continued for at least 15 days and notify all parties by mail of the court's decision and the new hearing date, time and place.

In all cases, including those in which the defendant does not challenge venue or appear at the hearing, the judge must inquire into the facts and determine if venue is proper. When venue is improper, the court, on its own motions, must dismiss the case without prejudice unless all defendants are present and agree that the action may be heard.





PLAINTIFF'S CLAIM AND ORDER TO DEFENDANT

Require:

Pleadings – presented on the forms as adopted for mandatory use by the Judicial Council:

- Plaintiff's Claim and Order to Go to Small Claims Court (Small Claims) SC-100 (Rev. January 1, 2005 mandatory form)
- Fictitious Business Name Declaration SC-103 (**if** the Plaintiff is suing under a fictitious business name. (Form approved for optional use.)

Fee \$ filing fee as required under CCP 116.230 unless there is a fee waiver.

Check:

Plaintiff's Claim and Order to Go to Small Claims Court – SC-100

- ☑ Name on the top left of the form
- #1 filing party information name, street address, mailing address and telephone number of each party
- #2 defendant information name, street address, mailing address and telephone number of each defendant
- #3 complete as appropriate
- **☑** #4 completed as appropriate
- ✓ #5 a box must be checked
- #6 zip code verify venue
- #7 completed as appropriate
- #8 completed as appropriate
- ✓ #9 as applicable
- ✓ #10 date and signature of plaintiff

Determine how the plaintiff wants the claim served, if they are going to have the court serve by certified mail you will be collecting the appropriate fee.

Process:

- assign a case number, according to your court policy you may be entering the case into your case management system
- complete the order to go to court by assigning the date and time for the hearing [i]
- ign as Deputy Clerk ign sign as Deputy Clerk
- ☑ filed stamp on upper right hand corner
- ⊠ conform the appropriate copies
- receipt the filing fee and provide the customer with a copy of the receipt
- make entry in automated system or reflect on register of actions

Scheduling the trial date (CCP 116.330):

When a claim is filed the clerk shall schedule the case for hearing accordingly and shall issue an order directing all parties to appear. In lieu of the method of setting the case for hearing, the clerk may do all of the following at the time claim is filed.

Civil Counter Filing Procedures, Civil General Filings

- ▶ Cause a copy of the claim to be mailed to the defendant by any form of mail providing for a return receipt (CCP 116.340);
- ▶ On receipt of proof that the claim was served, issue an order scheduling the case for hearing;
- Cause a copy of the order setting the case for hearing to be served upon the parties by any form of mail providing for a return receipt.

If the defendant resides **in** the county in which the claim was filed, the case shall be scheduled for hearing at least 15 days but no more than 40 days from the date of the order (CCP 116.330(c)).

If the defendant resides **out** of the county in which the action was filed, the case shall be scheduled for hearing at least 30 days but not more than 70 days from the date of the order (CCP 116.330(c)).

If there are two or more defendants and one or more of them resides outside the county in which the action was filed, the date for appearance of all defendants shall be at least 30 days but not more than 70 days from the date of the order.

Note:	
	 No formal pleadings other than the Plaintiff's or Defendant's claim are
	necessary to initiate a Small Claims action.
	The pre-trial discovery procedures described in CCP §2019(a) are not
	permitted in Small Claims Actions.
	The parties should bring any documents they have to court with a copy
	for the bench officer and copies for the other parties.

PROOF OF SERVICE - SMALL CLAIMS

METHODS OF SERVICE:

SPECIAL RULES FOR SERVICE

Specific requirements are set out for service on certain defendants, listed below.

Type of Defendant Authority Governing Service

Corporations CCP §§416.10-416.90

Partnerships CCP §416.40

Public entities CCP §416.50

Nonresident motorists CCP §§413.10(b), 415.40 (direct

service within the state), or CCP §116.340(f); Veh C §§17450-17461 (service on Director of Motor Vehicles with notice to defendant)

venicles with notice to defend

Nonresident real property owners CCP §116.340(e)

PERSONAL SERVICE (CCP-116.340)

Service is complete on the date a copy of the claim is served as described below:

- Personal delivery by someone other than the plaintiff on the defendant named in the claim. CCP §116.340(a)(2)
- Service on a business (sole ownership) using a fictitious business name is complete on date the owner is given a copy of the claim.
- Service on a partnership is complete on the date one of the partners is given a copy of the claim. If the individual partners are sued, they must each be served. CCP §416.40
- Service on a corporation is complete on the date a copy of the claim is given to an officer of the corporation or a person authorized to accept service on behalf of the corporation. CCP §416.10-416.90
- Service on a minor or incompetent is complete on the date a copy of the claim is given to the minor (at least 12 years of age) and to the guardian ad litem for incompetent person

CERTIFIED MAIL (CCP –116.340(A)(1))

The clerk mails the claim and order by certified mail to the defendant(s), restricted delivery, and return receipt. If service is to be done by certified mail, payment must be made for each defendant listed. (Instructions follow)

SUBSITUTE SERVICE (CCP –116.340(A)(3))

Service by substituted service is effected in two steps:

- A copy of the claim and order must be left at the home or place of employment. A copy of the claim must be given to a competent member of the household or to a person apparently in charge of defendant's office or place of business, who is at least 18 years of age, and who is informed of the contents thereof. No due diligence is required Cal Rules of Ct 1702
- A copy of the claim and order must be mailed to the defendant's address where the first copy was left. Service is deemed complete on the 10th day after mailing. CCP116.340 (a), 415.20(b).

*** A separate proof of service is required for each named defendant ***

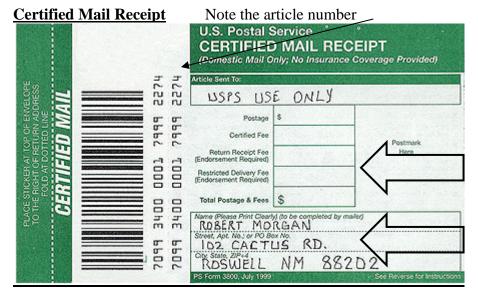
I CERTIFIED MAIL INSTRUCTIONS

Require:

Fee \$ fee as set by CCP §116.230(c)

Process:

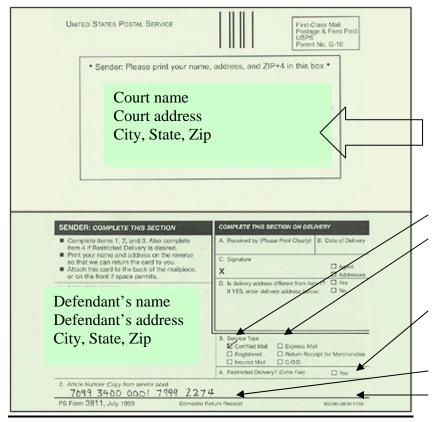
- Insert the plaintiff's claim and order to defendant into the envelope
- ⊠ complete the certified mail receipt
- ☑ complete PS form 3811, Domestic Return Receipt
- affix the Domestic Return Receipt to the back of the envelope
- affix the certified mail receipt to the right of the court address



Input the costs pursuant to your court practices assuring the prices match those charged by the Postal Service.

Complete the defendant's name and address

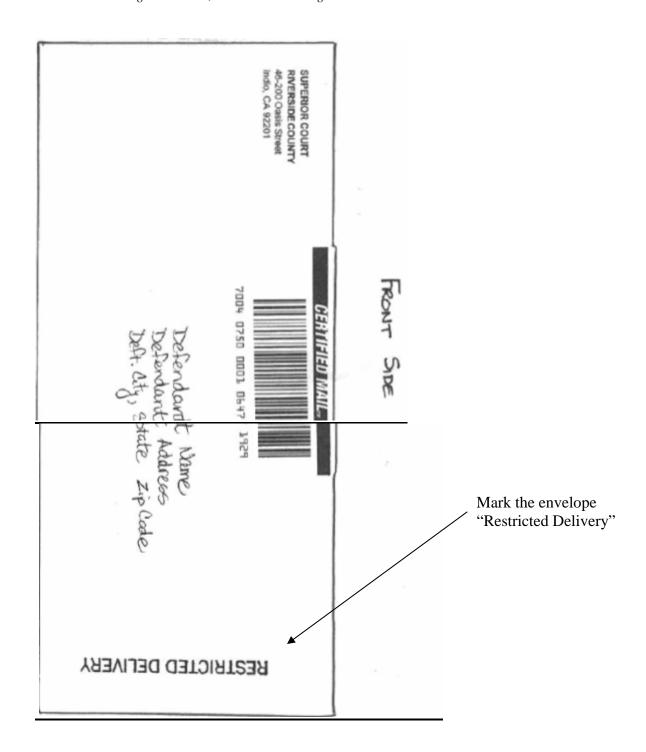
Civil Counter Filing Procedures, Civil General Filings

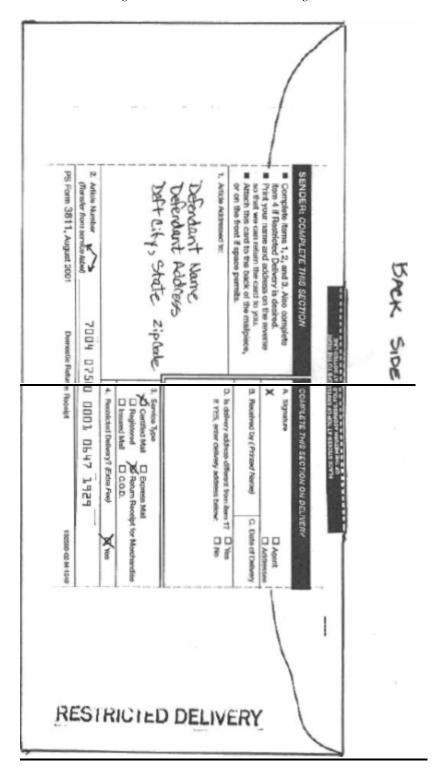


Complete defendant's name and address.

Box 3 mark "Certified Mail" and type in "Return Receipt Requested." Some court's mark "Return Receipt for Merchandise" so follow your court's practice. Box 4 mark "Yes" for Restricted Delivery.

Complete the article number from the receipt, and put the case number on the receipt to be able to match it up with the correct case.





THIS PAGE INTENTIONALLY LEFT BLANK

PROOF OF SERVICE (SMALL CLAIMS)

Service of the claim and order on the defendant shall be completed at least 15 days before the hearing date if the defendant resides within the county in which the action is filed, or at least 20 days before the hearing date if the defendant resides outside the county in which the action is filed.

-		•		
К	ea	111	re	٠.
	чч			•

Pleadings – presented on the form Approved by the Judicial Council:

Proof of Service (Small Claims) – SC-104 (Rev. January 1, 2005)

Check:

		Proof	of	Se	rvic
--	--	-------	----	----	------

- ☑ filing party information name, address, and telephone number
- name and address of court
- ✓ short title of case
- ✓ case number
- #2 complete with the documents served
- **✓** #3a party served
- #3 complete as appropriate, one box must be checked
- ✓ #4 completed address
- ✓ #5 completed as appropriate, one box must be checked
- ✓ #7 or 8 one box must be checked
- ✓ date and signature of server

Process:

- ĭ file stamp and conform all copies
- make entry in automated system or reflect on register of actions

Note:

- Service shall be made within the State except as provided below:
- The owner of record of real property in California who resides in another State and who has no lawfully designated agent in California for service of process.
- A non-resident owner or operator of a motor vehicle involved in an accident within this State may be served pursuant to the provisions of constructive service in sections 17450 and 17461 VC.

DEFENDANT'S CLAIM AND ORDER TO PLAINTIFF

A Defendants Claim may be filed by the defendant against the plaintiff in the same action in an amount not to exceed \$5,000. The claim need not relate to the same subject or event and the plaintiff's claim. CRC \$1703 The Defendant can only bring a claim against the named Plaintiff(s). If they wish to sue someone who is not a named plaintiff they must file a separate small claims action. CCP 116.360

		rate small claims action. CCP 116.360
Require:		
Pleadings		sented on the forms as adopted for mandatory use by the Judicial Council:
		Plaintiff's Claim and Order to Defendant – SC-120
		Fictitious Business Name Declaration – SC-103 (if the Defendant is
		suing under a fictitious business name. (Form approved for optional
Fee \$		use.) filing fee as required under CCP 116.230 unless there is a fee waiver.
Тее ф		Thing fee as required under CCF 110.230 unless there is a fee warver.
Check:		
	lant's	s Claim and Order to Plaintiff– SC-120
	\checkmark	Name and address of court on the top left of the form
		plaintiff information - name, street address, mailing address and
		telephone number of each party (The original plaintiff should always be
		reflected as the plaintiff.)
	\checkmark	defendant information - name, street address, mailing address and
		telephone number of each defendant
	\checkmark	#1 complete with the amount of claim and description of claim
		#2 completed if appropriate
	\checkmark	#3 completed as appropriate
	\checkmark	#4 completed as appropriate
	\checkmark	6 completed as appropriate
	$\overline{\checkmark}$	date and signature of defendant
_		
Process:	[V]	complete the order to plaintiff by assigning the date and time for the
	X	complete the order to plaintiff by assigning the date and time for the hearing as set forth on the plaintiff's claim
	X	fill in the "Filed on (date):"
	\boxtimes	sign as Deputy Clerk
	X	conform the appropriate copies
	X	receipt the filing fee and provide the customer with a copy of the receipt
	×	make entry in automated system or reflect on register of actions

Note:

The defendant shall cause a copy of the claim and order to be served on the plaintiff at least five days before the hearing date, unless the defendant: was served 10 days or less before the hearing date. In that event the defendant shall cause a copy of the defendants claim and order to be served on the plaintiff at least one day before the hearing date. CCP §116.360(c)

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

The defendant's claim shall be served by the same methods used in
serving a Plaintiff's Claim. CCP §116.360(b)
If a defendant has a claim against a plaintiff that exceeds the
jurisdictional limits and the claim relates to the contract, transaction,
matter or event which is the subject of the plaintiff's claim, the
defendant may commence an action against the plaintiff in a court of
competent jurisdiction (file a civil action) and request the small claims
court to transfer the small claims action to the court.

The Defendant may make a request by filing with the small claims court in which the plaintiff commenced the action, at or before the hearing date, a declaration stating the facts, with a true copy of the complaint so filed by the defendant against the plaintiff. There may be a \$1.00 transmittal fee.

The defendant shall cause a copy of the declaration and complaint to be personally delivered to the plaintiff at or before the time set for the hearing of the small claims action.

SUBPOENA AND DECLARATION CCP §1985(c) - SMALL CLAIMS

A Subpoena is a writ or order directed to a person requiring his or her attendance at a particular time and place to testify as a witness. It is also issued in order to compel a party to produce documents and records for a trial in lieu of an appearance.

The clerk shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service.

The date specified in a subpoena duces tecum for the production of personal records shall not be less than 15 days form the date the subpoena is issued.

Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, and of the notice described in CCP 1985.1.

Process:

	Small	Claims	Subpoena	and Dec	laration–	SC-107,	form	adopted	for	Mandat	tory
Us	se, BL	ANK									

- \boxtimes Affix the court seal on the bottom left of the 1st page
- **☒** Complete the "Date issued:"
- ☑ Insert the name of the Clerk of the Court
- ign as Deputy Clerk
 sign as Deputy Clerk

Note:

["]

 This service shall be made as follows:
■ To the consumer personally, or at his or her last known address. If the consumer is a minor, service shall be made on the minor's parent, guardian, or conservator.

There is no fee for the issuance of the subpoena or subpoena duces tecum.

- Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by CCP 1013 is service by mail.
- At least 5 days prior to service upon the custodian of records, plus the additional time provided by CCP 1013 if service is by mail.
- <u>WITNESS FEES GC 68093</u>- except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend a civil action or proceeding in the Superior courts, are (\$35.00) a day and mileage actually traveled both ways, (\$0.20) a mile.

REQUEST TO POSTPONE SMALL CLAIMS HEARING CCP §116.570

Any party may submit a written request to postpone a hearing date for good cause. The request may be made either by letter or on a form adopted or approved by the Judicial Council.

Require:

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

- Request to Postpone Small Claims Hearing SC-110
- Order on Request to Postpone Small Claims Hearing SC-111

Fee \$ filing fee as required under CCP 116.570(d) unless there is a fee waiver.

Check:

Request to Postpone Small Claims Hearing-SC-110

- ✓ name and address of filing party
- ✓ correct court information
- ✓ short cause caption
- case number
- ✓ #1 complete as appropriate
- #2 completed as appropriate
- ✓ #2b if appropriate
- ✓ #3 completed as appropriate
- ☑ date and signature of requesting party

Process:

- ĭ file stamp and conform copies
- make entry in automated system or reflect on register of actions

Check:

☐ Order on Request to Postpone Small Claims Hearing–SC-111

- ✓ name and address of filing party
- ☑ correct court information
- ☑ short cause caption hearing

Process:

- **☒** submit to Judge for determination
- if granted assign the new hearing date
- complete the clerk's certificate of mailing court order with all parties names and addresses
- ille stamp and conform copies
- make entry in automated system or reflect on register of actions
- receipt the filing fee and provide the customer with a copy of the receipt
- **⊠** mail to all parties

Note:

The request shall be filed at least 10 days before the hearing date, unless the court determines that the requesting party has good cause to file the request at a later date.

JUDGMENT CCP §116.610 - SMALL CLAIMS

The small claims court shall give judgment for damages, or equitable relief, or both damages and equitable relief, within the jurisdictional limits stated in Sections 116.220 and 116.231, and may make such orders as to time of payment or otherwise as the court deems just and equitable for the resolution of the dispute.

THIS IS A DUTY OF THE COURT CLERK

Require:

Pleadings – presented on the forms as adopted for mandatory use by the Judicial Council:

Notice of Entry of Judgment − SC-130

Complete as ordered by the Court:

	Notice	of Entry	of Judgment-	SC-130
=	Nonce	or Entry	or Juagment-	- 20-130

- ✓ name and address of court
- filing party information name, street address, mailing address and telephone number of each party
- ☑ defendant information name, street address, mailing address and telephone number of each defendant
- ✓ case number
- ✓ #1 through 12 complete if appropriate
- ☑ complete 13 clerk's certificate of mailing
- ☑ sign as deputy clerk

Process:

- make entry in automated system or reflect on register of actions

Note:

When the court renders judgment, the clerk shall promptly deliver or mail notice of entry of the judgment to the parties, and shall execute a certificate of personal delivery or mailing and place it in the file. CCP §116.610(h)

MOTIONS CCP §116.720, 116.730 & 116.740 - SMALL CLAIMS

A motion is a request or application to the court for rendering an order. The most common motions that you will encounter in Small Claims court are:

- Motion for Correction of Judgment
- Motion for Time Payments of Judgment
- Motion to Vacate Cancel Judgment

A notice of motion, in writing must state when the motion will be heard, and the grounds upon which it will be made, and the papers, if any, upon which it will be based.

Require: Pleadings Fee \$		sented on the forms as approved for optional use by the Judicial Council: Notice of Motion and Declaration – SC-105 Notice of Motion to Vacate (Cancel) Judgment and Declaration – SC-135 Can also be submitted on pleading paper filing fee as required under GC 26830 unless there is a fee waiver.
Notice		
		name and address of court filing party information – name, street address, mailing address and telephone number of each party
	$\overline{\checkmark}$	defendant information – name, street address, mailing address and telephone number of each defendant
	$\overline{\square}$	case number
	\overline{A}	"Notice to" complete date and signature of declaring party
Process:	X X X X X	assign hearing date (no less than 10 days from the date of mailing) complete clerk's certificate of mailing file stamp and conform copies make entry in automated system or reflect on register of actions issue receipt mail copies to the parties
		ourt may grant a motion to vacate the judgment filed either by a plaintiff
		defendant who failed to appear at the hearing. CCP 116.720(a),(c), 80(a) (c)

Pursuant to CCP §116.720(b) it is the clerk's duty to mail the written notice.

A plaintiff who failed to appear at the hearing may file a motion to vacate the judgment with the clerk of the small claims court within 30 days after the clerk has mailed notice of entry of judgment to the parties.
The clerk must schedule a hearing on the motion for a date no earlier them ten days after the clerk has mailed written notice of the date, time, and place of the hearing to the parties. CCP 117.720(b).
A defendant who did not appear at the hearing may file a motion to vacate the default judgment with the clerk of the small claims court within 30 days after the clerk has mailed notice of entry of the judgment to the parties. CCP 116.730(a).
The defendant must appear at any hearing on the motion, or must submit written justification for not appearing together with a declaration in support of the motion. CCP 116.730(b).
If the defendant was not properly served as required by CCP 116.330 or 116.340, and did not appear at the hearing in the small claims court, the defendant may file a motion to vacate the judgment with the clerk of the court CCP 116.740(a).
The motion must be accompanied by a supporting declaration, and must be filed within 180 days after the defendant discovered (or should have discovered) that judgment was entered against the defendant. CCP 116.740(a).
The court may order suspension of enforcement of the judgment pending a determination of the motion to vacate. CCP 116.740(b).
The court may grant the motion on a showing of good cause. CCP 116.740(c). If the plaintiff is not present, the court must hear the motion in the plaintiff's absence.
If any of the motions to vacate judgment are granted, and if all parties are present and agree, the court may hear the case without rescheduling it. CCP §116.720(d) & 116.730(d)

APPEAL CCP §116.750 ET SEQ. - SMALL CLAIMS

An appeal from a judgment in a small claims action is taken by filing a notice of appeal with the clerk of the small claims court. CCP §116.750

Require Pleading		sented on the forms as approved for optional use by the Judicial Council: Notice of Appeal (Small Claims) – SC-140
Fee \$		filing fee as required under GC 26830 unless there is a fee waiver.
■ Notic	e of A _j ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑ ☑	Ppeal – SC-140 Verify that the judgment has been entered and that stay of execution has not expired. The timeframes are 30 days on contested matters and 10 days on a denial of a motion to vacate judgment. name and address of court filing party information – name, street address, mailing address and telephone number of each party defendant information – name, street address, mailing address and telephone number of each defendant
		case number notice of appeal complete date and signature of appellant or appellant's attorney if an insurer date and signature of declaring party
Process:		complete the "Notice to" insert the date the appeal was filed complete the clerk's certificate of mailing file stamp and conform copies make entry in automated system or reflect on register of actions issue receipt mail copies to the parties route to correct department for processing of appeal
Note:	Notice The ti date t	ng fee is not presented to the clerk at the time of filing, file stamp the e of Appeal and send Notice to Pay Fee/File Waiver Within 10 Days. me in which to file an appeal in a small claims action is 30 days from the clerk has delivered or mailed the notice of entry of judgment to the supon a contested judgment .

The time for tiling the notice is not extended by filing a request to correct a mistake in the judgment or by virtue of any subsequent proceeding on that request. CCP 116.750(c). However, if the judgment is modified, a new 30-day period for filing a notice of appeal begins on the date the clerk delivers or mails to the parties' notice of entry of the modified judgment. CCP 116.750(c).
A plaintiff has no right to appeal his or her own claim CCP 116.710(a) nor may a defendant who seeks affirmative relief by filing a claim against the plaintiff, appeal from an adverse judgment on that claim.
If the defendant appeals from the plaintiff's claim, or the plaintiff appeals from a counter claim, the scope of the hearing includes claims of all the parties who were parties to the small claims action, including the claim of a defendant that had been heard in the small claims court. CCP 116.770(d).
This does not include defendants who where were previously dismissed by the plaintiff prior to the small claims hearing. It does, however, include defendants that were present at the small claims hearing but were dismissed by the court.
A defendant who did not appear at the hearing has no right to appeal the judgment, but may file a motion to vacate the judgment. CCP 116.710
A Defendant can file an appeal as to the denial of the motion to vacate the judgment. A plaintiff has no recourse and cannot file an appeal.
If a motion to vacate a default judgment is denied a defendant can file an appeal within 10 days from the denial of the motion.
Within ten days after completing the appeal process, the court hearing the appeal must order the appeal and judgment transferred to the small claims division for enforcement and other post-judgment proceedings. CCP 116.780(d).

REQUEST TO PAY JUDGMENT IN INSTALLMENTS CCP §116.620(b) - SMALL CLAIMS

The judgment debtor can request the judgment be paid in installments.

Require:

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

Request to Pay Judgment in Installments (Small Claims) – SC-106

Fee \$ filing fee as required under GC 26830 unless there is a fee waiver.

Request to Pay Judgment in Installments – SC-106

- name and address of court
- filing party information name, street address, mailing address and telephone number of each party
- defendant information name, street address, mailing address and telephone number of each defendant
- ✓ case number
- #2 look to be sure the completed financial declaration is attached if request is to make installment payments
- ✓ #5 completed
- ☑ date and signature of judgment debtor

Process:

- ĭ file stamp and conform copies
- make entry in automated system or reflect on register of actions
- issue receipt

Page 2

- ☑ Tickle 10 days for a response from Judgment Creditor
- After expiration of the 10 days present the request and any response from the Judgment Creditor to the Judge.
- ☑ If the Judge sets for hearing assign a hearing date and complete the "Clerk's Certificate of Mailing Notice of Motion"
- ☑ If the Judge makes a determination complete the "Clerk's Certificate of Mailing Court Order"
- Depending upon your court policy file the "Court Order" when the judge makes the determination

REQUEST TO PAY JUDGMENT TO COURT CCP §116.860- SMALL CLAIMS

When a judgment debtor desires to satisfy a judgment and they are unable to locate the plaintiff or desire otherwise, they may do so by paying the entire judgment amount and accrued interest directly to the small claims clerk. When the full amount of the judgment is paid, the clerk shall issue a satisfaction of judgment and notify the judgment creditor explaining the procedures for obtaining the money form the court. Money not claimed by the judgment creditor within 3 years becomes the property of the court. 50050 GC- 50056 GC.

If payment is made by means other than money order, certified or cashier's check, or cash, entry of satisfaction of the judgment shall be delayed for 30 days.

Require:

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

Request to Pay Judgment to Court (Small Claims) – SC-145

Fee \$ filing fee as required under GC 26830 unless there is a fee waiver.

Request to Pay Judgment to Court – SC-145

- name and address of court
- filing party information name, street address, mailing address and telephone number of each party
- defendant information name, street address, mailing address and telephone number of each defendant
- ☑ case number
- ☑ #2 date judgment was entered
- **☑** #3 completed
- ✓ #4 a, b, c, d & e completed
- ✓ #5 completed as appropriate
- date and signature of judgment debtor

Process:

- acalculate the total amount required to enter a satisfaction of judgment
- collect the total amount required to enter a satisfaction of judgment, deposit into **Trust** account
- ĭ collect the filing fee
- ile stamp and conform copies
- make entry in automated system or reflect on register of actions
- issue receipt

Page 2

- ☑ complete "Clerk's Certificate of Mailing
- Tickle 3 years for the funds to be claimed by judgment creditor or turned over to the court
- Enter the satisfaction of judgment, unless paid by personal check then tickle 30 days to enter the satisfaction of judgment

ORDER TO PRODUCE STATEMENT OF ASSETS AND TO APPEAR FOR EXAMINATION CCP §116.820 & 116.830 - SMALL CLAIMS

Within 30 days after the clerk mails notice of entry of the judgment, the judgment debtor must deliver to the judgment creditor a completed Judicial Council form SC-133 disclosing the nature and location of his or her assets, unless the judgment has been satisfied. If the defendant fails to complete and deliver to the judgment creditor a completed Judgment Debtor's Statement of Assets, the judgment creditor may file with the court an order to produce statement of assets and to appear for examination. CCP 116.820.

The Order for Appearance of Judgment Debtor is a court order **commanding** the judgment debtor to appear in court at a specific date and time, and to submit himself to questioning so that the judgment creditor may ascertain what assets are held which may be levied against so as to allow the judgment creditor to obtain satisfaction on the court judgment awarded.

If the judgment debtor willfully fails to comply with these requirements, the judgment creditor may request the court to apply sanctions including arrest and attorneys' fees, as provided in CCP 708.170 on contempt of court. 116.83(d).

Require:

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

Application and Order to Produce Statement of Assets and to Appear for Examination (Small Claims) – SC-134

Fee \$ filing fee as required under GC 26830 unless there is a fee waiver.

Application and Order to Produce Statement of Assets and to Appear for Examination – SC-134

- name and address of court
- filing party information name, street address, mailing address and telephone number of each party
- defendant information name, street address, mailing address and telephone number of each defendant
- ✓ case number
- **✓** #1 completed
- date and signature of declarant

Process:

- ĭ collect the filing fee
- obtain the judge's signature
- assign a hearing date
 assign a hearing date
- make entry in automated system or reflect on register of actions
- issue receipt

Court Clerk Training Institute, 2005

Civil Counter Filing Procedures, Civil General Filings

ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT CCP §116.850

If full payment of the judgment is made to the judgment creditor or to the judgment creditor's assignee of record, then immediately upon receipt of payment, the judgment creditor or assignee shall file with the clerk of the court an acknowledgment of satisfaction of the judgment.

T)	•	
Req	111	ro.
Neu	uı	1 .

Pleadings – presented on the forms as approved for optional use by the Judicial Council:

Acknowledgment of Satisfaction of Judgment on Reverse of Notice of Entry of Judgment – SC-130

Or

Acknowledgment of Satisfaction of Judgment – EJ-100

Acknowledgment of Satisfaction of Judgment on Reverse of Notice of Entry of Judgment

☑ Either judgment creditor or assignee of record marked

☑ date and signature of declarant

Process:

☑ file stamp and conform copies

make entry in automated system or reflect on register of actions

APPENDIX

Abstract of • • • • • • • • • • • • • • • • • •	C-12
Acknowledgment of Satisfaction of Judgment – Small Claims • • • • • • • • • • • • • • • • • • •	G-39
Amended Pleadings - General Civil • • • • • • • • • • • • • • • • • • •	B-11
Answer - General Civil •••••••••••••••	B-7
Answer – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-11
Answer to Request for Orders to Stop Harassment • • • • • • • • • • • • • • • • • • •	F-7
Appeal – Small Claims • • • • • • • • • • • • • • • • • • •	G-31
Application and Order for Re-issuance of Order to Show Cause • • • • • • • • • • • • • • • • • • •	F-27
Application for Appointment of Guardian Ad Litem - General Civil • • • • • • • • • • • • • • • • • • •	D-3
Case Management Statement - General Civil • • • • • • • • • • • • • • • • • • •	B-13
Certified Mail Instructions – Small Claims • • • • • • • • • • • • • • • • • • •	G-14
Civil Harassment Introduction • • • • • • • • • • • • • • • • • • •	F-1
Civil Information • • • • • • • • • • • • • • • • • • •	B-1
Civil Introduction • • • • • • • • • • • • • • • • • • •	B-1
Clerk's Judgment – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-25
Code of Ethics • • • • • • • • • • • • • • • • • • •	A-3
Complaint – General Civil • • • • • • • • • • • • • • • • • • •	B-4
Complaint – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-5
Complaint in Intervention – General Civil • • • • • • • • • • • • • • • • • • •	B-37
Contested Proceedings – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-28
Court Judgment – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-29
Court Judgment – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-26
Cross-Complaint - General Civil • • • • • • • • • • • • • • • • • • •	B-9
Decree Changing Name – Change of Name • • • • • • • • • • • • • • • • • • •	D-16
Default – General Civil· · · · · · · · · · · · · · · · · · ·	B-19
Default – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-20
Default Judgment by Clerk – General Civil • • • • • • • • • • • • • • • • • • •	B-23
Default Judgment by Court - General Civil • • • • • • • • • • • • • • • • • • •	B-25
Defendant's Claim and Order to Plaintiff – Small Claims • • • • • • • • • • • • • • • • • • •	G-21
Ex Parte Applications - General Civil • • • • • • • • • • • • • • • • • • •	B-33
Good Faith Settlement - General Civil • • • • • • • • • • • • • • • • • • •	B-32
In Forma Pauperis/Fee Waiver • • • • • • • • • • • • • • • • • • •	D-1
Interacting with the Public • • • • • • • • • • • • • • • • • • •	A-1
Judgment – Small Claims • • • • • • • • • • • • • • • • • • •	G-27
Jurisdiction - General Civil • • • • • • • • • • • • • • • • • • •	B-15
Jurisdiction • • • • • • • • • • • • • • • • • • •	E-19
Listening as a Skill • • • • • • • • • • • • • • • • • •	A-2
Motion to be Relieved as Council – Civil • • • • • • • • • • • • • • • • • • •	D-5
Motions – Defined and Hearing Timelines • • • • • • • • • • • • • • • • • • •	B-28
Motions – Small Claims • • • • • • • • • • • • • • • • • • •	G-29
Motions Instructions – General Civil • • • • • • • • • • • • • • • • • • •	B-31
Notice of Entry of Judgment (sample) – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-31
Open-Ended Questions • • • • • • • • • • • • • • • • • • •	A-2

Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-17
Order for Examination • • • • • • • • • • • • • • • • • • •	C-23
Claims	G-37
Order to Show Cause and Temporary Order – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-3
	F-20
Order to Show Cause and Temporary Restraining Order – Workplace Violence • • • Petition Declaration of Emancipation of Minor, Order Prescribing Notice,	F-12
Declaration of Emancipation and Order Denying Petition • • • • • • • • • • • • • • • • • • •	D-17
Petition for Change of Name • • • • • • • • • • • • • • • • • • •	D-12
Petition for Compromise Claim of Minor • • • • • • • • • • • • • • • • • • •	D-10
Petition of Employer for Injunction Prohibiting Violence or Threats of Violence	
Against Employee • • • • • • • • • • • • • • • • • •	F-11
Plaintiff's Claim and Order to Defendant – Small Claims • • • • • • • • • • • • • • • • • • •	G-10
Prejudgment Claim of Right to Possession Instructions – Unlawful Detainer • • • • •	E-17
Prejudgment Claim of Right to Possession Post Judgment – Unlawful Detainer • • •	E-15
Prejudgment Claim of Right to Possession Pre Judgment – Unlawful Detainer • • • •	E-13
Proof of Personal Service – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-5
Proof of Personal Service – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-14
Proof of Sale of Firearms/Turning in of Firearms • • • • • • • • • • • • • • • • • • •	F-26
Proof of Service - Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-22
Proof of Service – Small Claims • • • • • • • • • • • • • • • • • • •	G-19
Proof of Service – Summons – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-9
Proof of Service by Mail – Civil Harassment • • • • • • • • • • • • • • • • • • •	F-8
Proof of Service by Mail Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-24
Proof of Service Defined – Small Claims • • • • • • • • • • • • • • • • • • •	G-12
Proof of Service Methods - General Civil • • • • • • • • • • • • • • • • • • •	B-16
Proof of Service of Completed Response – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-16
Proof of Service of Order to Show Cause – Change of Name • • • • • • • • • • • • • • • • • • •	D-15
Protective Orders for Elder or Dependent Adult • • • • • • • • • • • • • • • • • • •	F-19
Renewal of Judgment • • • • • • • • • • • • • • • • • • •	C-16
Request for CLETS and CJIS Report (example) • • • • • • • • • • • • • • • • • • •	D-14
Request for Dismissal • • • • • • • • • • • • • • • • • • •	D-8
Request to Enter Default – General Civil • • • • • • • • • • • • • • • • • • •	B-21
Request to Enter Default – Unlawful Detainer • • • • • • • • • • • • • • • • • • •	E-22
Request to Pay Judgment in Installments – Small Claims • • • • • • • • • • • • • • • • • • •	G-33
Request to Pay Judgment to Court – Small Claims • • • • • • • • • • • • • • • • • • •	G-35
Request to Postpone Small Claims Hearing • • • • • • • • • • • • • • • • • • •	G-25
Response to Petition for Protective Orders Elder or Dependent Abuse • • • • • • • • •	F-23
Response to Petition of Employer for Injunction Prohibiting Violence or Threats of	
Violence Against Employee - – Workplace Violence • • • • • • • • • • • • • • • • • • •	F-15
Restraining Order After Hearing Elder or Dependent Abuse • • • • • • • • • • • • • • • • • • •	F-25
Restraining Order After Hearing to Stop Harassment • • • • • • • • • • • • • • • • • • •	F-9
Sister-State Judgment - General Civil • • • • • • • • • • • • • • • • • • •	B-26

G-1
G-9
G-1
B-36
D-21
G-23
D-4
F-2
E-1
E-1
C-1
D-19